SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1905

No. 224.

THE PUBLIC CLEARING HOUSE, APPELLANT,

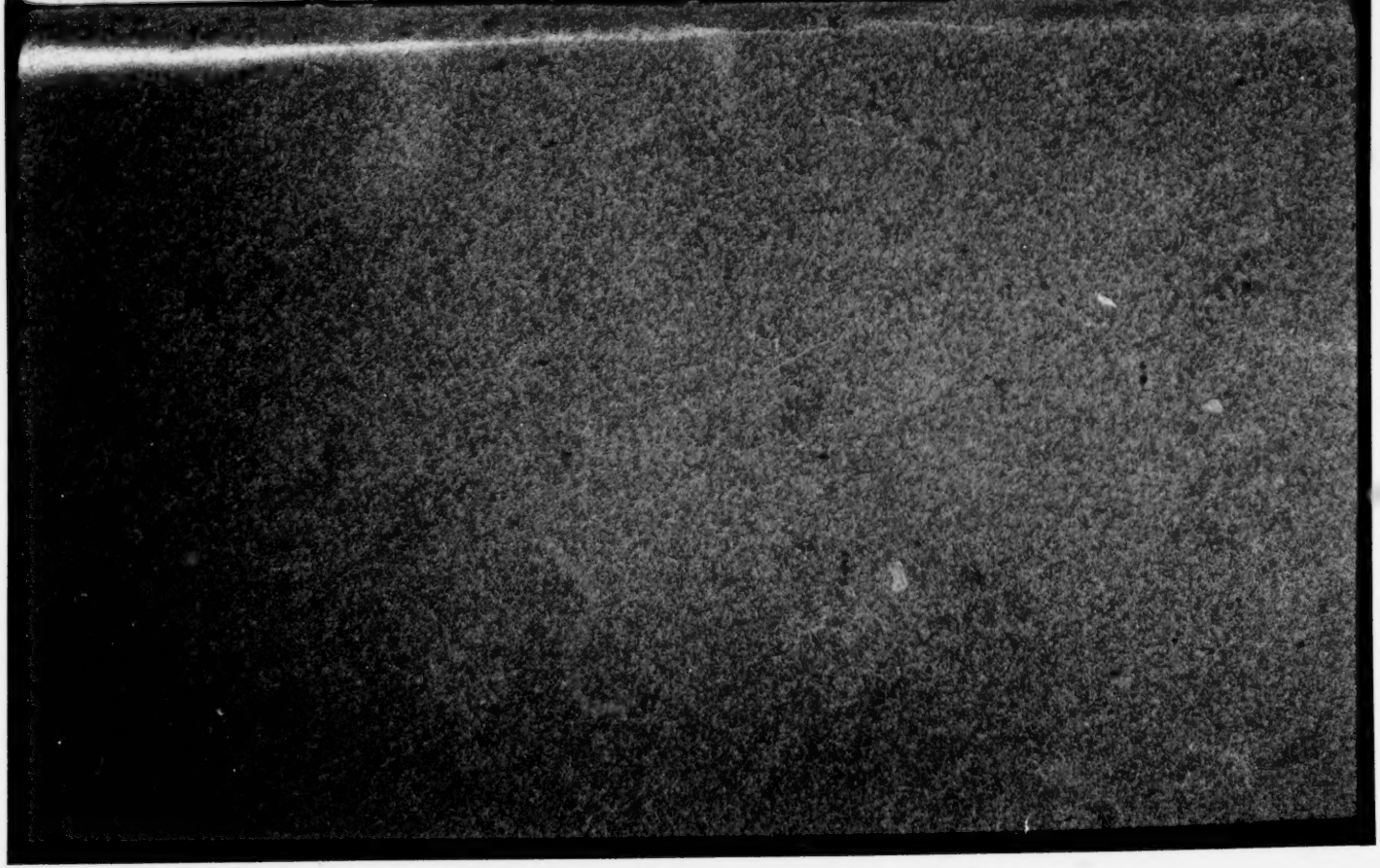
vs.

F. E. COYNE, AS POSTMASTER OF THE CITY OF CHICAGO, IN THE STATE OF ILLINOIS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED FEBRUARY 24, 1906.

(18,846.)



(18,846.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 618.

THE PUBLIC CLEARING HOUSE, APPELLANT,

vs.

F. E. COYNE, AS POSTMASTER OF THE CITY OF CHICAGO, IN THE STATE OF ILLINOIS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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1 Circuit Court of the United States, Northern District of Illinois, Northern Division.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster of the City of Chicago. } 26538. In Chancery.

Mr. D. I. Sicklesteel, solicitor for The Public Clearing House.
Mr. S. H. Bethea, United States attorney for F. E. Coyne, as postmaster of the city of Chicago.

2 *Præcipe for Record.*

Circuit Court of the United States, Northern District of Illinois, Northern Division.

PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster at Chicago. } 26538.

To the clerk of the above-entitled court:—

You will please prepare transcript of the record in this cause; to be filed in the office of the clerk of the Supreme Court of the United States, under the appeal heretofore perfected to said court and include in said transcript the following pleadings, proceedings and papers on file, to-wit:

Bill of complaint, omitting the co-operator's agreement, copy of which is set out in answer.
Answer, and exhibits,
Replication,
Order of Dec., 8, 1902, referring case to master in chancery.
Master's report on final reference,
Abstract of testimony taken before master in chancery,
Order of Jan'y, 9, 1903, objections taken before master to stand as exceptions to master's report.
Decree of January 23, 1903,
Petition for appeal, assignment of errors, order allowing appeal, bond.

Said transcript to be prepared as required by law and the rules of this court, and the rules of the Supreme Court of the United States and on file in the office of the clerk of the Supreme Court of the United States, at Washington, D. C. before the 26th day of February, 1903.

D. I. SICKLESTEEL,
Solicitor for Appellant.

(Endorsed:) Filed February 20, 1903, Marshall E. Sampsell clerk.

3 Pleas in the circuit court of the United States for the northern district of Illinois—northern division in chancery sitting at the United States court room, in the city of Chicago, in said district and division, before the Honorable Christian C. Kohlsaat, district judge of the United States for said northern district of Illinois, on Friday, the twenty-third day of January, in the year of our Lord one thousand nine hundred and three, being one of the days of the regular December term of said court, 1902, and of our Independence the one hundred and twenty-seventh year.

MARSHALL E. SAMPSELL, *Clerk.*

4 Northern District of Illinois, Northern Division.

THE PUBLIC CLEARING HOUSE *vs.* F. E. COYNE, as Postmaster of the City of Chicago.	26538.	In Chancery.

Be it remembered that on this day to-wit: the twenty-fourth day of November, 1902, came The Public Clearing House by its solicitor, Mr. D. I. Sicklesteel, and filed in the clerk's office of said court its certain bill of complaint in words and figures following to-wit:

5 *Bill.*

UNITED STATES OF AMERICA, *Northern District of Illinois,* } *ss:*

To the honorable the judges of the circuit court of the United States for the northern district of Illinois:

Your orator The Public Clearing House, a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, and having its office and place of business at the city of Chicago in said State of Illinois shows unto your honors the object and purposes for which it was incorporated "is to do a general brokerage and commission business, to collect and disburse money, to conduct an exchange and information bureau for patrons and to act as agent for patrons for the aforesaid objects and purposes."

Your orator further represents unto your honors that it was proceeding with the business for which it was incorporated and which is fully intended to include and does include a general brokerage and commission business and the establishment of an exchange and information bureau, and it had been appointed the fiscal agent and clearing house by the individual members of a voluntary mutual association known as the League of Equity and was and is carrying on its business as such agent for the individual members of said League of Equity and it has been on and prior to the 13th day of November, A. D. 1902, receiving and is entitled to receive sealed letters, packages, packets and ordinary mail and registered mail matter addressed to it at its office at #184 La Salle street, Chicago,

Illinois, and all sealed letters, packages and packets or mail matter, either ordinary or registered, addressed as aforesaid to your orator and intended to be delivered by the defendant as postmaster at Chicago, Illinois, and by the post-office officials or employees
6 under the control and direction of said defendant postmaster to your orator by the person or persons mailing all of said sealed letters, packages, packets and mail matter at its said address at the said city of Chicago, Illinois, and that the value to your orator of the use of the ordinary mail facilities in controversy herein exceeds the sum of two thousand dollars exclusive of interest and costs.

Your orator further represents unto your honors that F. E. Coyne of the said city of Chicago, in said State of Illinois is a citizen of said State of Illinois and is the duly qualified acting postmaster of the United States post-office at said city of Chicago, Illinois, and as such postmaster in his official capacity he has under the postal laws and postal regulations of the United States control of and supervision of the collection, distribution, receipt and delivery of all of the United States mail arriving at and deposited in the United States post-office, United States post-boxes and all sub-stations of said United States post-office at said city of Chicago, Illinois, and also has control and supervision of the registered letter and money order departments of said United States post-office at said city of Chicago, and that as such postmaster it was and is his duty to deliver or cause to be delivered by the carriers and employees in the service of the post-office at Chicago, promptly and with dispatch to your orator all registered and ordinary mail matter, sealed letters, packages and packets arriving at said post-office for your orator addressed as aforesaid and to pay to your orator or its order, all money orders made payable to your orator or its order or that of its officers or agents at said United States post-office at said city of Chicago in the usual and ordinary course of business as provided for in the postal laws and postal regulations of the United States.

Your orator further shows unto your honors that it has extensive business and general correspondence and also now and for
7 sometime last past has been acting as agent and representative of several thousand citizens of the various States in the United States and that as such agent it enjoyed the usual and ordinary mail facilities of a citizen of the United States, receiving all mail, sealed letters, packages and packets addressed to it in the usual course of delivery from the post-office at Chicago, which mail matter, both ordinary and registered was delivered to it at its said office, 184 La Salle street, Chicago, Illinois, That prior to the 13th day of November, A. D. 1902, all mail matter both ordinary and registered addressed to your orator as aforesaid was regularly and promptly delivered to your orator at said address. That prior to the 13th day of November, A. D. 1902, your orator enjoyed the usual and ordinary money order facilities of a citizen of the United States and all money orders made payable to it were promptly paid by said defendant in his official capacity as postmaster of said city of Chicago, Illinois. That the defendant, F. E. Coyne was and is the

duly appointed postmaster at Chicago, Illinois and qualified as such and that as postmaster in the exercise of his authority and the performance of his duty and in due course of mail has received and is receiving into his custody at the post-office at Chicago, Illinois each day, including and since the 13th day of November, A. D. 1902, sealed letters, packages and packets addressed to your orator at the aforesaid address, which said mail matter both ordinary and registered were intended by the senders thereof to be delivered to your orator at its said office in the said city of Chicago, Illinois, such said sealed letters, packages, packets and mail matter both ordinary and registered were mailed to your orator by its correspondents who are members of and constitute a purely mutual and co-operative association organized under the name of the League of Equity and which said letters, packages, and packets were mailed to your orator aforesaid by said members and correspondents for the sole and express purpose of having your orator act as their agent carry out
8 and fulfill their instructions as embodied in and set forth in the system of purely mutual co-operation as applied by the said League of Equity as hereinafter more fully set forth.

Your orator further represents unto your honors that it was and is the official duty of the defendant postmaster at the city of Chicago, Illinois to deliver to your orator at the aforesaid address all of said sealed letters, packages, packets and mail matter both ordinary and registered so addressed as aforesaid and intended by the senders thereof to be delivered to your orator and received at said post-office and that it has requested of the defendant the delivery of said letters, packages, packets so addressed to them as aforesaid, but that wholly in disregard of his official duty and in violation thereof and of the rights of your orator he refuses to deliver said sealed letters, packages, packets or mail matter or any of them to your orator, but arbitrarily and wrongfully and without notice to your orator either before or after the seizure and detention of said letters as they were received from day to day and from time to time in said post-office, wholly refused and still refuses to deliver said letters and packages to your orator so addressed as aforesaid or to anyone for it.

Your orator further represents unto your honors that said F. E. Coyne, in his official capacity as postmaster of the said city of Chicago, Illinois, having control and supervision of the collection, distribution, receipt and delivery of the United States mail, registered letters and the payment of post-office money orders made payable to your orator, its officers or agents or to any of them, or their order has on and since the 13th day of November, A. D. 1902, arbitrarily illegally and without right undertaken to interfere and has interfered with, stopped, prevented and prohibited the delivery and distribution to your orator of all sealed letters, packages, packets and all registered letters and mail matter received in the ordinary course of the mail at the United States post-office at Chicago,
9 Illinois, and has arbitrarily, unlawfully, illegally and without right, stopped, prevented and prohibited the payment to your orator, its officers or agents or to their order all post-office

money orders, made in favor of your orator, its officers or agents since the 13th day of November, A. D. 1902.

Your orator further represents unto your honors that said sealed letters, packages and packets so wrongfully seized and detained as aforesaid by the said defendant, contained post-office money orders, express companies' orders, bank drafts and currency, which is being remitted by the senders thereof to your orator as the agent of the senders thereof to be distributed by your orator as such agent as aforesaid to the realizing members of the League of Equity for whom the said money is being remitted, and that by reason of wrongfully unlawfully and illegally seizing and detaining said letters, packages and packets and of the wrongful, unlawful and illegal refusal of said defendant in his official capacity as such postmaster as aforesaid to honor and pay all post-office money orders drawn in favor of your orator, its officers or agents as aforesaid or either of them, it had been greatly injured in its reputation and business and its business of acting as agent and clearing house for members of the League of Equity as hereinafter set forth, is being and will be irreparably injured and absolutely ruined unless the defendant F. E. Coyne in his official capacity as postmaster of Chicago, Illinois, his deputies assistants and post-office employees be restrained by order and injunction of this honorable court from refusing to honor and pay all post-office money orders drawn in favor of your orator or its officers or agents or any of them and from detaining seizing or tampering with the mail or mail matter, sealed letters, packages, packets and registered letters so addressed to your orator as aforesaid, and received from day to day and from time to time by the defendant in his official capacity as postmaster as aforesaid and from refusing to deliver to your orator or its officers or agents as such, all mail or mail matter, sealed letters, packages, packets and registered letters which shall or may from day to day or from time to time be received by him in his official capacity as aforesaid or otherwise, except to receive and deliver said mail matter, sealed, packages, packets and registered letters to your orator, its officers or agents according to their rights in the premises. Your orator has also been and still is by the said defendant in his official capacity as postmaster of Chicago wholly denied and deprived of the right and privilege of the use of the United States mail or said post-office at Chicago, Illinois for any purpose whatever since the 13th day of November A. D. 1902, and that said defendant in his official capacity as aforesaid continues to seize, detain and refuse to deliver any mail matter addressed to your orator, and he refuses to desist therefrom and will continue to do so unless he is restrained by order and injunction of this honorable court.

Your orator further represents unto your honors that C. Franklin Davis and Martin J. Baxman, co-partners as the board of managers of the League of Educators had been for more than three years prior to October 25th, 1902 engaged in the business of acting as agents and clearing house for several thousand persons residing throughout the United States and Canada, and who were known as the

League of Educators, and that as such agents and clearing house they had accumulated a large number of mailing list cards, people's addresses, records, books and papers which were and are of great value to your orator in the conduct of its business, which said mailing list cards, people's addresses, records, books and papers were purchased by your orator of and from said C. Franklin Davis and Martin J. Baxman for use in its said business, and were and are being used by your orator for the purpose of obtaining business and securing people to apply for the co-operator's agreement and appoint your orator as their fiscal agent and clearing house. Said persons are organized as a purely mutual voluntary co-operative
11 society known as the League of Equity and who were and are appointing your orator their fiscal agent and clearing house to act for them and on their behalf during the period of co-operation of said co-operators who were and are co-operating with one another in a purely mutual way in strict accordance with the terms and conditions of the application for the co-operator's agreement and the agreement itself, a copy of which application was and is as follows:

Application for Co-operator's Agreement in the League of Equity Formed for Mutual Benefit of True Co-operators.

I herewith enclose three dollars ($3) and apply for the co-operator's agreement in the League of Equity.

1. My full name is —— ——
(Be sure and prefix your name with Mrs. or Miss as the case may be.)
2. My age is — yrs.
3. My permanent address where notices are to be sent is St. and No. — ——
Town ——
County —— State ——

Declaration.

I warrant the above statement to be true and complete, and I agree to co-operate faithfully according to the terms of the co-operator's agreement, and hereby authorize and empower the public clearing house to act as my agent in this behalf.

Signature of applicant —— ——
Dated at —— this — day of —— 190–
Recommended by —— ——
Recommender's No. — Address ——

Address all communications to The Public Clearing House (Incorporated) 184 La Salle street, Chicago, Ill., C. Franklin Davis, pres. Martin J. Baxman, sec'y and treas.

A copy of which said co-operator's agreement was and is as follows:

12 (Here follows a copy of the co-operator's agreement not copied, an exact copy of the same signed C. Franklin Davis, president, M. J. Baxman, secretary and treasurer and written across the face in red ink "Sample copy" is set out in the defendant's answer.)

13 Your orator further represents unto your honors that it is and has been acting as fiscal agent and clearing house for co-operators in the League of Equity, who have been and still are co-operating with one another in strict accordance with the terms and stipulations of the aforesaid application and co-operator's agreement, and not otherwise; said co-operators promising each other that each will fully comply with said agreement and have appointed your orator as their fiscal agent and clearing house to receive the monthly share of each co-operator for and on behalf of the co-operator entitled according to the terms and stipulations of said co-operator's agreement to a realization; and it is also your orator's said duty to keep the records of each co-operator during his period of co-operation.

Your orator further represents unto your honors that in order to successfully carry on its said business of acting as fiscal agent and clearing house for co-operators of the League of Equity and to secure and transact its business of broker and commission agent and as an exchange and information bureau it is absolutely necessary for it to have the uninterrupted use of the United States mails, and all the usual and ordinary postal facilities of the United States as provided by the United States postal laws and postal regulations for the use of the citizens of the United States, and that the unlawful and illegal and arbitrary action of the defendant in his official capacity as postmaster of Chicago, in wholly denying and depriving your orator of the right and privilege of using the United States mail or said post-office at Chicago, Illinois, for any purpose whatever since the 13th day of November, 1902, he has greatly damaged and injured your orator in its said business, and if not enjoined by order and injunction of this honorable court as aforesaid immediately, its said business will be wholly and irreparably injured and ruined and the said mailing list, cards, people's addresses, records, books and pa-
14 pers, which are now and were of very great value will become a total loss to your orator.

Your orator further represents unto your honors that said defendant, F. E. Coyne, in his official capacity as such postmaster as aforesaid, bases his unlawful and illegal and arbitrary action in such interference and denial to your orator of all of the postal facilities aforesaid of the post-office at Chicago, Illinois, and of his unlawful and illegal refusal to deliver to your orator all mail matter, registered letters, sealed letters, packages, and packets received from day to day and from time to time at the post-office at Chicago, Illinois, addressed to your orator as aforesaid and his refusal to pay all post-office money orders made in favor of your orator, its officers or agents as such since the 13th day of November, A. D. 1902, and the returning either to the senders of all such mail matter, registered

letters, sealed letters, packages and packets or to the Dead Letter office of the United States, at Washington, D. C. as dead matter upon an order issued under and by virtue of sections 3929–4041 of the Revised Statutes of the United States as amended, which said order is in words and figures as follows, to-wit:

"*Order No.* 1267.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *Nov.* 10, 1902.

It having been made to appear upon presentation to the Postmaster General, upon evidence satisfactory to him that the League of Equity and the Public Clearing House and their officers and agents in their capacity as such, at Chicago, Illinois are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations or promises in violation of an act of Congress entitled "An act to amend certain sections of the Revised Statutes relating to lotteries and for other purposes" approved Sept. 19, 1890.

Now, therefore, by authority vested in him by said act, and by the act of Congress entitled "An act for the suppression of
15 lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," approved March 2, 1895. The Postmaster General, hereby forbids you to pay any postal money order drawn to the order of said concerns or to their officers or agents as such, and you are hereby directed to inform the remitter of any such postal money order that payment thereof has been forbidden, and that the amount thereof will be returned upon presentation of a duplicate money order applied for and obtained under the regulations of the department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to such concerns or to their officers or agents as such, to postmasters at the office at which they were originally mailed to be delivered to the sender thereof, with the word "fraudulent" plainly written or stamped upon the outside of such letters or matter, provided, however, *then* where there is nothing to indicate who are the senders of letters not registered or other matter, you are directed in that case to send such letters or matter at your office with the word "fraudulent" plainly written or stamped thereon, and disposed of as other dead matter under the laws and regulations applicable thereto.

(Signed) H. C. PAYNE,
Postmaster General.

To the postmaster, Chicago, Illinois."

which said order was received on the 13th day of November, A. D. 1902, by the defendant in his official capacity as postmaster as aforesaid and which said order the defendant, F. E. Coyne makes as his

sole and only excuse for so interfering with your orator's said mail and for so refusing to deliver to it at its address all sealed letters, packages and packets which arrived from day to day and from time to time in the ordinary course of the mail since the 13th day of
16 November, A. D. 1902, at the post office at Chicago, Illinois, and for refusing to pay to your orator, its officers or agents as such, all post-office money orders and for denying to your orator the use of the money order and registered letter departments in said post-office at Chicago, Illinois, of all the usual facilities of the said post-office; and the said defendant, F. E. Coyne, in his official capacity as aforesaid, has advised your orator that he would continue to refuse to deliver to your orator all mail matter, registered letters, sealed letters, packages and packets coming into his possession, custody or control as such postmaster as aforesaid addressed to your orator and would return all of the said mail matter either to the senders thereof or to the Dead Letter office, and that he would continue to refuse to honor or pay all post-office money orders made payable to your orator, its officers or agents as such or either of them until he was advised or ordered to the contrary by the Post-master General of the United States.

Your orator further represents unto your honors that it is informed and believes that the said defendant, F. E. Coyne in his official capacity as such postmaster refuses to permit the delivery of all of said mail and his denial to your orator of the right of using the United States mail or said post-office at Chicago, Illinois, for any purpose whatever since the 13th day of November, A. D. 1902, solely and only because he claims and insists that under the advice of the Post-master General contained in the aforesaid order, that your orator has and is in the conduct of its business and in receiving of the mail thereof from the United States post-office as aforesaid, has violated and is violating certain portions of the statutes of the United States known and designated as sections numbers 3929 and 4041 passed September 19th, 1890, and section 4 of an act approved March 2nd, 1895, which said statute reads as follows:
17 "Sec. 3929 of the Statutes of 1890, chapter 908, section 2. The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise or scheme for the distribution of money, or of any real or personal property by lot, chance or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, instruct postmaster at any post-office at which registered letters arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank corporation or association of any kind to return all such registered letters to the postmaster at the office at which they were originally mailed with the word "fraudulent" plainly written or stamped upon the outside thereof, and all such letters so returned

to such postmaster- shall be by them returned to the writers thereof, under such regulations as the Postmaster General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift enterprise scheme or device that remittance for same may be made by registered letters to any other person, firm, bank, corporation or association named therein shall be held to be *prima facie* evidence of the existence of such agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of such agency in any other legal way satisfactory to himself."

Sec. 4041 of the Statutes of 1890, chapter 908, section 2. The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise or scheme for the distribution of money; or of any real or personal property by lot, chance or drawing of any kind, or
18 that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, forbids the payment by any postmaster to the said person or company of any postal money orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money orders, but this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme or device, that the remittance for the same may be made by means of postal money orders to any other person firm, bank corporation or association named therein, shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of any such agency in any other legal way."

"SECTION 4. That the powers conferred on the Postmaster General by the Statutes of 1890, chapter 908, section 2, are hereby extended and made applicable to all letters or other matter sent by mail. Approved March 2nd, 1895."

Your orator further represents unto your honors that it is not engaged in any lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lot or chance or concerning schemes devised for the purpose of obtaining money or property under false or fraudulent pretenses, representations or promises of any kind and has not in any manner or form violated any of the postal laws or postal regulations of the United States and that all of the mail matter, sealed letters, packets and packages arriving at said United States post-office at Chicago, Illinois, and coming into the possession,

custody or control of the defendant, F. E. Coyne, in his official capacity as such postmaster as aforesaid are properly
19 stamped and in all things comply with the postal laws and regulations and are mailable matter under said laws and regulations and do not pertain to or in any manner concern any lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lot or chance or schemes devised for the purpose of obtaining money or property under false or fraudulent pretenses, representations or promises of any kind.

Your orator further represents unto your honors that said mail posted by the co-operators of the League of Equity to your orator according to its best information and belief contain checks, drafts, money and money orders of the United States, payable to it or its officers or agents as such for the express and only purpose of having your orator acting as fiscal agent, and clearing house for such co-operators and pay to the co-operators for whom the said money is paid their *pro-rata* share of the amount contributed by said co-operators, all of which is contributed and paid out in strict accordance with the terms of said co-operator's agreement hereinbefore set forth, your orator retaining 10% of said amount for its services in acting as such fiscal agent and clearing house for said co-operators of the League of Equity, and it says that none of said money or property is received by it to be paid out as aforesaid by means of any false or fraudulent pretenses, representations or promises of any kind.

Your orator further represents unto your honors that all of said mail matter so addressed to your orator as aforesaid and received from day to day and time to time by the defendant in his official capacity as such postmaster as aforesaid have been and are being posted to your orator by its patrons, numbering about 5000 persons throughout the United States and Canada and who had on and before the 13th day of November, A. D. 1902 appointed your orator as their fiscal agent and clearing house to act for them and on their behalf during their period of co-operation, and also mail
20 matter ordering through your orator merchandise which had been advertised by your orator for sale by it as broker and commission agent, and also mail matter concerning exchange of merchandise and chattels through the medium of your orator.

Your orator further represents unto your honors that said defendant in his official capacity as aforesaid and in violation of the 4th amendment of the Constitution of the United States has, claiming to act under the aforesaid order and statutes, sent to the Dead Letter office at Washington, D. C. a large number of sealed letters, packages and packets which said sealed letters, packages and packets had plainly written, printed or stamped thereon the address of the sender thereof and that thereafter said sealed letters, packages and packets were returned and delivered to the address so written, printed or stamped thereon after the same had been opened by the employees of the Dead Letter office, which said acts and actions of the defendant and of the Post-Office Department are in violation

and contravention of the said 4th amendment of the Constitution and of the laws of the United States.

Your orator further represents unto your honors that the said order was issued by the said Postmaster General without any hearing by or on behalf of your orator and without any investigation of any kind by the Post-Office Department or any of its officials relative to the business conducted by your orator as aforesaid, and it further charges and alleges upon information and belief that the said order was issued by the said Postmaster General without any evidence having been placed before him for his consideration relative to the business of your orator, and that the said order was issued by the said Postmaster General absolutely upon the recommendation of one G. A. F. Christiancy, who claims to be acting assistant attorney general for the Post Office Department and that the said G. A. F. Christiancy recommended to the Postmaster General that the said order be issued without
21 any investigation being made by him and without any hearing by or on behalf of your orator and without any evidence of any kind being submitted to him as to the business being conducted by your orator and that the said G. A. F. Christiancy has said that there is not any element of lottery or chance in the said plan and that your orator and its officers and agents are not guilty of any fraud or fraudulent pra-tices of any kind, but that he would hold and find that said plan and system of co-operation was a fraud upon its face, and that same would not finance out and therefore he would cause said fraud order to be issued by the Postmaster General and it was issued accordingly and not otherwise.

Your orator further represents unto your honors that acting upon said order and under the provisions of the statutes heretofore quoted the defendant in his official capacity as such postmaster refused and still refuses to permit the delivery of the mail aforesaid and he assigns as his only reason for doing so is that the same would be a violation of the said order of the Postmaster General, founded upon the provisions of the Revised Statutes of the United States heretofore set forth, and but for said order of the Postmaster General founded upon the said statutes, the said defendant would not refuse the delivery of the aforesaid mail, and that said defendant claims that said statutory provisions of the United States heretofore set forth are legal and constitutional and that the order founded thereon by the Postmaster General is therefor- properly issued, and that he is acting according to law in obeying and following said sta-utory provisions and the order of the Postmaster General founded thereon, and that said claim of the defendant is the only claim or reason which he assigns or gives for the refusal to permit the delivery of the mail aforesaid or
22 for the refusal to pay or permit the payment of post-office money orders to your orator, its officers or agents as such.

Your orator further represents unto your honors that said statutes have no application whatever to the conducting or carrying on of its said business; that its business is a legitimate one, and that there is not any element of lottery or chance of any kind in it, and that

no fraud, deceit, deception, fraudulent pretense or misrepresentation of any kind has ever been practiced by it and that its patrons and the co-operators of the League of Equity do not claim or assert that your orator has in any manner practiced any fraud, deceit or misrepresentation at any time in procuring patronage or business from them and that they have not at any time violated or been parties directly or indirectly to the violation or infringement of the said statutes hereinbefore quoted and that the defendant is attempting under advice and instructions as aforesaid, to arbitrarily and by *ex parte* means to decide for himself and be the sole judge to determine that your orator has or is violating said law and to take it upon himself to so assume and adjudge, when in truth or in fact he does not know or cannot know of the contents or nature of said letters, or of their import or character, and undertake--arbitrarily to act as judge in his own case and to invade and infringe upon the rights of your orator without any adjudication or decision or hearing by any competent tribunal court, or authority as to the property, interest and right to determine said question, and has without authority deprived and seeks to deprive your orator of its property and property rights without due process of law.

And your orator further states and alleges that the said provision of the law, to-wit: the sections of the statute of the United States heretofore mentioned are in violation of the 4th, 5th and 14th amendments of the Constitution of the United States and other
23 provisions of the Constitution of the United States, in that the same undertakes to deprive persons of property and would deprive your orator, if enforced, of its property and property rights without due process of law; and in fact it attempts and if enforced will place in power of the postmasters of the United States and of the Post-Office Department of the United States the sole and exclusive right to pass upon the rights of your orator as between itself and other parties with whom it deals and transacts business through the mails without a hearing, and that said sections and provisions of the statute are void for the reason that they provide for no tribunal court or authority to hear and determine any violation of the statute or claimed violation of the statute, but placed the same absolutely in the power and control of the postmasters and the Post-Office Department, and attempts to vest an arbitrary discretion in the postmasters and Post-Office Department to determine for themselves, as they see fit, whether right or wrong, the question as to who shall and who shall not have and receive mail from the United States Post-Office Department, and who shall and who shall not use the United States mails, and vests in them the power, if enforced, to interdict and absolutely prohibit the carrying on of all commercial and business transactions of the country done through the mailing system if they see fit to do so, and makes the postmasters and Post-Office Department the sole judges in their own case.

Forasmuch therefore, as your orator is without remedy in the premises, except in a court of equity and to the end that the said F. E. Coyne in his official capacity as postmaster of the city of Chi-

cago in the State of Illinois *is* made defendant to this bill may be required to make full, complete, direct and true answer to this bill but not under oath, answer under oath being hereby expressly waived. That you grant unto it your writ of injunction directed to the said F. E. Coyne in his official capacity as postmaster of Chicago, Illinois, enjoining and prohibiting him from returning. attempting to return or taking any steps to return or aid in the return of any of the sealed letters, packages and packets or mail matter of any kind that is now or may hereafter be in or received in the post-office control at Chicago, Illinois, belonging to or addressed to The Public Clearing House, 184 La Salle street, Chicago, Illinois, its officers or agents as such and that he at once desist from carrying out any such purpose or contemplated purpose and that he be enjoined from interfering in any way with the future delivery of any mail or mail matter addressed to your orator, its officers or agents as such and that he be enjoined from detaining, seizing, tampering with the mail or mail matter, sealed letters, packages and packets and registered letters addressed to your orator as aforesaid, its officers or agents as such, which is now or may hereafter be in the custody or control of the defendant in his official capacity as aforesaid, or which shall from day to day or from time to time be received by him in his official capacity as aforesaid or otherwise except to receive and deliver said mail matter, sealed letters, packages, packets and registered letters to said The Clearing House, its officers and agents as such according to its rights until the hearing of this cause or until further order of court, and that said defendant in his official capacity as aforesaid be restrained and enjoined by your said writ of injunction from refusing to honor and pay all post-office orders drawn in favor of it or its officers or agents as such according to its rights until the hearing of this cause or until further order of court, and that upon a final hearing of this cause a perpetual injunction may be issued to and against said defendant in his official capacity as such postmaster, his successors, agents, employees or servants enjoining him and them all of the matters set forth and complained of and for all other and proper relief as to your honors may seem meet and proper or equity shall require to the end that compiete justice may be done to your orator herein.

And may it please your honors to grant the writ of subpœna directed to the United States marshal for the northern district of Illinois, commanding him that he summon the defendant F. E. Coyne, as postmaster of Chicago, Illinois, to appear before this honorable court on the first day of the next term thereof, then and there to answer this bill.

THE PUBLIC CLEARING HOUSE,
By C. FRANKLIN DAVIS, *President.*

D. I. SICKLESTEEL,
Solicitor for Complainant.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

C. Franklin Davis being first duly sworn on his oath deposes and says that he is one of the complainants in the foregoing bill of complaint; that he has read the said bill of complaint subscribed by him to which this affidavit is attached and that the allegations of the said bill of complaint are true.

C. FRANKLIN DAVIS.

Subscribed and sworn to before me this 24th day of November, A. D. 1902.

RICHARD G. MARRIOTT,
Notary Public.

[SEAL.]

(Endorsed:) Filed Nov. 24, 1903 Marshall E. Sampsell, clerk.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the Circuit Court of the United States for the Northern District of Illinois.

26 THE PUBLIC CLEARING HOUSE }
vs. } No. 26538. In Equity.
F. E. COYNE, as Postmaster of Chicago. }

C. Franklin Davis, being first duly sworn on his oath deposes and says that he is the president of the above named complainant in the bill of complaint filed in this court on the 24th day of November A. D. 1902, that he has read the said bill of complaint which was subscribed by him as such president, that he knows the contents thereof, and that the allegations of said bill of complaint are true.

C. FRANKLIN DAVIS.

Subscribed and sworn to before me this 29th day of November, A. D. 1902.

RICHARD G. MARRIOTT,
Notary Public.

[SEAL.]

(Endorsed:) Filed Nov. 29, 1902. Marshall E. Sampsell, clerk.

27 And on to wit: the 29th day of November, 1902, came the defendant in the said entitled cause by S. H. Bethea, United States attorney and filed in the clerk's office of said court his answer to the bill of complaint in words and figures following to wit:

Answer.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the Circuit Court.

THE PUBLIC CLEARING HOUSE, a Corporation, }
vs. } In Equity. Answer.
F. E. COYNE, Postmaster. }

The answer of the above named defendant to the bill of complaint of the above named complainant.

In answer to the said bill the said defendant, F. E. Coyne, says as follows:

1. He admits that the complainant is a corporation duly organized and existing under the laws of the State of Illinois, and has its office and place of business in the city of Chicago, and that it purports and pretends to do the business for which it is incorporated, as set forth in its bill; that in carrying out said pretended business it has been on and prior to the 13th day of November, A. D. 1902, receiving sealed letters, packages, packets and ordinary mail, and registered mail matter, addressed to it at its offices, at 184 La Salle street, Chicago, Illinois; that the defendant herein is a
28 citizen of the State of Illinois, and is the duly qualified and acting postmaster of the United States post office at the said city of Chicago, Illinois, and that as such postmaster the said defendant in his official capacity has, under the postal laws and postal regulations of the United States, control of and supervision of the collection, distribution and delivery of all of the United States mail arriving at and deposited in the United States post boxes, and all sub-stations of the said United States post office at said city of Chicago, Illinois, and also has control and supervision of the registered letters and money order departments of the said United States post office, at said city of Chicago, as set forth in said bill; that prior to the said 13th of November, A. D. 1902, the defendant caused to be delivered to the complainant at its said number, 184 La Salle street, all mails of every kind that came addressed to it, and that the complainant before said last date enjoyed the usual and ordinary money order facilities of a citizen of the United States, and that all money orders made payable to it were promptly paid by this defendant in his official capacity as postmaster; that this defendant, in his capacity as postmaster, has, since the said 13th day of November, A. D. 1902, received sealed letters, packages and packets addressed to the complainant at the aforesaid address, which said mail matter both ordinary and registered was intended by the senders thereof to be delivered to the complainant at its said offices; that since said 13th day of November, A. D. 1902, this defendant has,

through his subordinates and agents refused to deliver to the complainant any mail of any character, and has refused to pay to the complainant any post-office money orders; that this defendant has refused to deliver such mail matter to the complainant because of an order issued under and by virtue of sections 3929 and 4041 of
29 the Revised Statutes of the United States, as amended, which said order is in the words and figures as set forth in said bill on pages 8 and 9 thereof, and that he has stated to complainant or its agents that he will continue to refuse to deliver said mail to it; he admits that in his official capacity as aforesaid he has sent to the Dead Letter office at Washington, D. C. a large number of sealed letters, packages and packets, which said sealed letters, packages and packets were directed to the complainant at its aforesaid address.

2. Further answering, this defendant denies that the complainant has been or is doing the business for which it was organized and incorporated; and denies that the complainant is doing a general brokerage and commission business and that it has established an exchange and information bureau, and that it has been appointed the fiscal agent and clearing house by the individual members of a voluntary and mutual association known as the League of Equity, and that it is carrying on its business as such agent for the individual members of said League of Equity, and that it has been on and prior to the 13th of November, 1902, entitled to receive sealed letters packages, packets and ordinary mail and registered mail matter addressed to it at its offices, 184 La Salle street, Chicago, Illinois; he denies that it is his official duty as postmaster in the said city to deliver to the complainant at its address aforesaid, all sealed letters, packages, packets and mail matter, either ordinary or registered, addressed to the complainant at such number; he denies that on and since the 13th day of November, 1902, that he has arbitrarily, illegally or without right undertaken to interfere, or that he has interfered with, stopped, prevented and prohibited the delivery
30 and distribution of all such mail to the complainant, illegally and without right; he denies that the complainant by any stoppage of its mail has been injured in the pursuit of its legitimate business; he denies that one C. Franklin Davis and Martin J. Baxman, co-partners as the board of managers of the Leag-e of Educators, have been for any time engaged in the business of acting as agents and clearing house for several other persons, or for any persons residing throughout the United States and Canada, and that as such agents or clearing house they had accumulated a large number of mail list cards, people's addresses, records, books and papers which are of great value to them, or any value in the pursuit of their legitimate business, or the legitimate business of this complainant; he denies that the complainant is and has been acting as fiscal agent and clearing house for co-operators in the League of Equity in any legitimate business; he denies that the complainant in order to carry out successfully the business for which it was organized was required to or had a right to use the mails as set forth

in its said bill; he denies the statement in the complainant's bill to the effect that it is not engaged in any lottery, so-called gift concert or any similar enterprise, offering prizes dependent upon lot or chance, or concerning schemes devised for the purpose of obtaining money or property under false or fraudulent pretences, representations or promises of any kind, and that it has not in any manner or form violated any of the postal laws and postal regulations of the United States; he denies that said order issued by the said Postmaster-General as set forth in said bill was issued without any hearing by or on behalf of the complainant or any person representing it; he denies that said order was issued by the
31 Postmaster General without any evidence being placed before him for his consideration relative to the business of the complainant; he denies that the said order was issued by the said Postmaster General absolutely and upon the recommendation of one "G. A. F. Christiancy," acting Assistant Postmaster-General, of the Post Office Department of the United States and he denies that said G. A. F. Christiancy made any recommendation to the said Postmaster General without any investigation or hearing or evidence; he denies the said G. A. F. Christiancy has said that there was not any element of lottery or chance in the said plan of the complainant and its officers or agents or that said Christiancy made any of the statements set forth in said bill; he denies that the business of the complainant as conducted by it, wherein it has been and is using the mails of the United States, is a legitimate business; he denies that the complainant is or will be irreparably injured by the conduct of the defendants.

3. This complainant, further answering this defendant, says that the complainant herein, and the League of Equity referred to in the said bill, are successors to the League of Educators against which the Postmaster General issued a fraud order under date of October 22nd, 1902, as provided by statute; that said fraud order is still pending and acquiesced in. That for the purpose of avoiding that order, certain persons managing the business of the complainant, caused the said complainant corporation to be organized for the purpose of continuing the business of the League of Educators upon the same plan and for the same purpose; that the fraud order that was issued against the League of Educators was issued, upon the following facts, after a hearing of all the parties interested, and upon evidence produced before the Postmaster General and his
32 proper subordinates, viz: that the said league was engaged in the sale of certificates providing for the payment of a certain monthly assessment or premium through a certain period of time, all those joining in the same month (with a few arbitrary exceptions) to have their certificates matured in the same month of the year following or at the expiration of a uniform period of one or more years; the maximum endowments or redemption values paid certificate holders were eight dollars for each one dollar invested by them, provided they were required to pay the maximum rate of assessment. If they were not required to pay the maximum rate of

assessment but received the maximum redemption value the rate of profit was greater than eight dollars for one dollar. Taking the league's business as a whole, it had paid to those who had so far realized on their investments an average of about eight dollars for each dollar paid in, That the said league had collected from a membership of about 13784 a total of $137390.66, of which amount the promoters and their agents had taken about $36052 for their expenses, the remainder had been distributed among between six and seven hundred members, while the thousands of members who were at the time of the issue of the fraud order and are now upon the league's books, had not received a cent, and could not receive a cent except it be collected from new comers; for the league maintained no reserve fund, had no surplus or capital, and all moneys collected were disbursed the same month received. That during the league's existence, covering a period of about four years, it had required as a matter of fact, about 21 new members to pay one old one, whereas only eight new ones would have been required had none of the members lapsed in their payments. Assuming
33 that the league were to pay eight dollars for each one dollar contributed, on the average, as it has done in the past, and as it states, in its literature it hopes to be able to do in the future, as shown by exhibits hereto attached marked Exhibits A to F and that it paid 1000 certificates the first year, and that all certificates were redeemable in one year, as they are partially if certain requirements are complied with, to pay those maturing the first year would require the contributions of 8,000 new members the second year, and to pay these latter would require 64,000 new members the third year; and to pay these latter would require 512,000 new members the fourth year; and to pay these latter would require 4,096,000 new members the fifth year; and to pay these latter would require 32,768,000 new members the sixth year; and to pay these latter would require 262,144,000 new members the seventh year; and to pay these latter would require 2,297,152,000 new members the eighth year; and to pay these latter would require 18,377,216,000 new members the ninth year; and to pay these latter would require 97,017,728,000 new members the tenth year; and supposing the end were to come the tenth year—and there must be an end to all such schemes—there would be 97,017,728,000 members, if they all persisted, who would have contributed $776,141,824,000, and have not a cent to their credit in the hands of the league, for, as stated above, the league creates no reserve; but the world's population would be exhausted on the above basis before the scheme had run nine years.

The defendant further says that the above statement of facts upon which the Postmaster General issued the fraud order of October 22nd, 1902, is true in substance and in fact.

The defendant further says that the said C. Franklin Davis and
34 Martin J. Baxman, and others co-operating with them in the conduct of the schemes above referred to, for the purpose of still continuing the same operations as above set forth:

after the said fraud order of October 22nd, 1902, was issued, submitted certain papers to this defendant at Chicago, which were forwarded to the Postmaster General and his assistants, and also sent certain circular letters through the mails, which were also submitted to the said persons, all of which are hereto attached and marked Exhibits G to I and made a part of this answer. The Postmaster General received this evidence, with others, in determining the question as to whether a fraud order should be issued against the complainant, and having considered the same and becoming satisfied that this was simply a continuation of the original scheme of the League of Educators, and that it was a scheme to defraud, so found by him upon evidence satisfactory to him, did, upon November 10th, 1902, issue the fraud order set forth in the complainant's bill of complaint.

This defendant further says that the complainant, and the said C. Franklin Davis and Martin J. Baxman and others connected with them, are in fact now, and have been since the 13th of November last, conducting their business through the mails on the same plan and in the same manner as did the League of Educators; that their said plan of doing business is a scheme to defraud in this, that the complainant and its officers, advertise to the public and to those dealing with them, through the mails, that they can, upon receipt of a certain amount of money, pay out at the end of a given period a very much larger amount of money, and that they can do this without investing their money; and the said scheme, as set forth in their papers as above referred to and as shown in these exhibits and in the bill of complaint, and as shown by the other evidence herewith to be presented, shows conclusively that the patrons of this company must in the end, certainly lose money, and that the representations and statements of the complainant and its employés, and those managing it, are false and fraudulent, within the meaning of the law.

This defendant further says that the said plan of operation of the complainant and its employés, and those promoting it, is a violation of the Federal laws for the suppression of lotteries; that the amount of money that any of the patrons shall receive depends upon chance, that is, it is a matter of chance as to how many new members will join or whether any will join; that is, the amount that the patrons shall receive depends, and will depend, upon contingencies over which the parties to the transaction (the parties, in the case of The Public Clearing House, being the individual member expecting his endowment on the one side, and the promoters and all other members on the other side) have no control and which they cannot forecast.

This defendant by protestation, not confessing or acknowledging all or any of the matters or things, in said bill of complaint contained, to be true, in such manner and form as the same are therein set forth and alleged, doth demur to the said bill, and for causes of demurrer showeth:

First. That it appeareth by the complainant's own showing by the

said bill that he is not entitled to the relief prayed by the bill against this defendant.

Second. That it appears by the said bill that the plan of operations of the complainant amounts to schemes to defraud under
36 section 5480 of the Revised Statutes of the United States, in that the complainant and its promoters hold out to the world through the mails certain inducements and misstatements of fact as to the amount of money that could be realized by their patrons, which amount to fraud.

Third. That it appears by the said bill, that the plan of operations of the complainant is a scheme in the nature of a lottery in which the amount of money that its patrons shall receive depends upon chance, and that it appears that the complainant does not come into court with clean hands.

Fourth. It appears by the said bill that the Postmaster General of the United States has issued a fraud order against it upon evidence satisfactory to him, as provided for by the Federal statutes.

Therefore it appears by the said bill that this court has no jurisdiction of the subject matter or of the defendant as postmaster.

4. It appears by the said bill that the Postmaster General had power and authority to enter the fraud order.

It appears by the said bill that the Postmaster General in issuing the fraud order in question acted within his authority and jurisdiction, and that being true, this court has no jurisdiction.

Wherefore, and for divers other good causes of demurrer appearing in said bill, this defendant doth demur thereto.

All of which matters and things the defendant is ready and willing to aver, maintain and prove as this honorable court shall direct, and prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

F. E. COYNE, *Postmaster.*

37 STATE OF ILLINOIS, } ss:
County of Cook, }

Northern District of Illinois.

Frederick E. Coyne, being duly sworn, deposes and says that he has read the above bill, and that the same is true in substance and in fact so far as the said bill shows that the statements are of his own knowledge, and that as to the other statements he believes them to be true.

F. E. COYNE.

Subscribed and sworn to before me this 28th day of November, A. D. 1902.

B. E. DUPPLER,
Notary Public.

[SEAL.]

S. H. BETHEA,
U. S. Attorney, Solicitor for Defendant.

38 Ex. A.

A Revelation to the People.

Liberty. Equality.

Copyright 1902, by the board of managers, League of Educators.

League of Educators.

"As a result of the war, corporations have been enthroned and an era of corruption in high places will follow and the money power of the country will endeavor to prolong its reign by working on the prejudices of the people until all wealth is aggregated in a few hands and the Republic is destroyed. I feel at this moment more anxiety for the safety of my country than ever before, even in the midst of war."

ABRAHAM LINCOLN.

DEAR READER: Throw aside that prejudice which our martyred President said would be our ruin, and go with us through these pages that you may understand what purely mutual co-operation means and what it is doing for mankind.

39 *Preface.*

In presenting these pages to the people, the authors do not claim to have discovered something new. No untried methods, theories or principles are presented; it is simply a new application of an old principle. The very same principles, causes, reasons, powers and laws which have long enabled companies, concerns and corporations to exist and make some show of progress, enter into this system of purely mutual co-operation, the only difference being that many of the profit-taking commercial organizations, in handling the people's dollars, use up more than one half of each dollar for their own purposes, while this system teaches the people how to assume the burden of managing their own money and consequently realize the full value of each dollar.

An un-alterable law forces people to draw on others in order to exist, and compels all organizations or associations of people to exchange, handle, use and exploit money and the commodities purchaseable therewith, that proper distribution, necessary to the comfort and maintenance of the people may be made. This un-alterable law is made all the more forcible and beneficial to the people by co-operation, by reason of saving the waste or the profit-takers' share in the exchange or distributing process which must necessarily take place during the life of human beings to make existence possible.

Inasmuch as no untried methods are advocated or new theories advanced, surely the whole people will give the cause of purely mutual co-operation their support, because in so doing they save the profit that is now going to concerns or profit-taking organizations

for doing that which the people can just as well do themselves by co-operation.

Admitting that these pages are written for men and women who are willing to think, and hoping for a careful perusal of the same, we submit them.

Respectfully, BOARD OF MANAGERS, LEAGUE OF EDUCATORS.

40 Use your brains.

Your opinion is desired.

This is the organization that has created more comment than all other organizations combined. By reason of the ignorance of the principles of true co-operation on the part of some, and maliciousness on the part of others is has been called a "lottery," "a-get-rich-quick scheme," "an endless chain plan," "a fraud," "a fake," and many other things all of which have caused people of common sense and reason to do some thinking on their own account, and which has caused a phenomenal growth in the membership.

Read this book carefully and then if you are not satisfied, write for further information and remember that the management knows that no human being can sustain an objection to, or find a flaw in the league's system of co-operation. It is absolutely perfect in its operation; works automatically; and is self-adjusting for the reason that the system is working between the two limited amounts as explained in the literature.

The League of Educators is an organization with a system of co-operation for the distribution of money and other commodities for the benefit of the whole people instead of a privileged few.

League of Educators.

The League of Educators positively is not an insura-ce company, neither is it an investment company nor a commercial organization of any kind.

The league is simply a mutual society of co-operators composed of the very best people throughout America, who are co-operating with one another in a purely mutual way for the purpose of furnishing one another with a handsome endowment either as a recompense for faithful co-operation or for educational purposes.

A certificate of membership is issued to eligible persons upon receipt of $3.00 membership fee.

Every member agrees by the acceptance of his or her certificate of membership to pay his or her *pro-rata* share of all endowments falling due to other members according to the terms set forth in the certificate of membership.

A certificate of membership expires and the endowment becomes due and payable by making a *pro-rata* call on all the members at the expiration of five years from date of issue, as a recompense for faithful co-operation.

If the person named in the certificate should secure three new members during the first year of membership, said member shall be entitled to one-fifth of the endowment at the expiration of one year from date of the certificate of the last person joining of the required three members, and if the member named in the certificate should secure three more members the second year, said member shall be entitled to another one-fifth of the endowment at the expiration of the second year, and so on, realizing one-fifth each year until the expiration of the five years (any larger number of members than three secured in one year applies on the required three members for the succeeding years), it being understood that if the member named in the certificate should not take advantage of the foregoing privilege to secure a part of the endowment each year, said member shall be entitled to the endowment at the expiration of five years as a recompense for faithful co-operation.

A *pro-rata* endowment call, limited to $500, is made on all the members in the United States and Canada in favor of a member whenever his or her certificate of membership expires, or a part of same becomes due by reason of securing new members.

Five per cent. of the amount realized by said call is retained by the management in payment for its services to said member and for keeping the records, mailing calls, etc.

The balance is promptly turned over to the member to whom it is due by the terms of the certificate of membership, said member receiving 95 cents of every dollar realized when the endowment call is made and is released from all further obligations to the league.

There are no other dues or fines.

One call is made the first of every month for endowments due to be paid.

Members forfeit all interest in the league, who fail to pay these calls (by recommending friends who join or in money) within 30 days from the day they are mailed to the last address given.

Pro-rata calls can never exceed 25 cts. for any one endowment due, but are materially decreased according to the number of members at the time of each call. For instance; if the membership is

2,000 each member is called on for 25 cents to pay 1 endowment.
5,000 each member is called on for 10 cents to pay 1 endowment.
10,000, each member is called on for 5 cents to pay 1 endowment.
50,000, each member is called on for 1 cent to pay 1 endowment.
100,000, each member is called on for ½ cent to pay 1 endowment.
200,000, each member is called on for ¼ cent to pay 1 endowment.

It costs a member no more to pay 200 calls when the membership is 200,000 than it does to pay 2 calls when the membership is 2,000 for the simple reason that in order to have a large number of endowments falling due at one time there must necessarily have been a proportionately large number of members joining at one time, so you see it makes no difference what the membership is, the expense should always be about the same.

41 A credit of 50 cents is allowed members on their endowment calls for each applicant, who joins by their recommendation.

Names and addresses of members for whom endowment calls are made, are published each month in "The Vigilant."

Members wishing to organize and maintain local "L. of E. gatherings" for social and literary purposes are assisted materially from the central office of the league.

The books of the league are at all times open to members.

The emblem of the league is a beautiful badge representing two parallel bars of equal size, thus indicating equality, with the letters L. of E. and the word "Equality" artistically engraved thereon.

The initiatory.

The object of the management is to conduct a co-operative college of extension for educational purposes, to promote co-operative knowledge, and to consolidate, combine and concentrate the individual powers of all the members of the League of Educators for the purpose of co-operating with one another in carrying out several unique and beneficial enterprises.

Membership.

The league's membership extends into all the States and Canada, and members are receiving their endowments right along. Millions can be benefitted just the same as hundreds and thousands. The only thing necessary is to be willing to go on an equal basis with all of the members and every one is sure of the endowment at a very small expense, no matter how many there may be to receive it.

The number of endowments due at any one time, no matter how many, are controlled by the number of people that are joining. The only thing each member is interested in, is how fast people are joining. The realization of endowments and the amount of money to be realized, no matter how much, are taken care of by the increase of membership, as the ratio of increase governs everything. This is true because the endowment is limited to $500, and the endowment call for each endowment to 25 cents. Every increase in membership must therefore, decrease the amount of the endowment call for each endowment. Thus it will be seen that the plan is harnessed at both ends, works automatically and is self-adjusting. The very fact that the endowment and the endowment call for each endowment are limited, makes it a certainty that the monthly *pro-rata* share for each one to pay is perfectly governed, and therefore cannot become excessive.

Do not compare it with other things you have heard of, for there positively has never been anything like it in existence. The league's system is absolutely perfect—not one single objection can be made to it, and sustained.

After you have thoroughly familiarized yourself with the league's system you will understand and appreciate the value of purely mutual co-operation and will know to a certainty that no living soul can find an objection to the system of co-operation as applied by the league and sustain that objection. So confident are the managers of the league of this fact that they offer $1,000 to any banker, lawyer, insurance actuary, business man, *of* any one else who can show them a flaw in the system of co-operation as applied by the league.

L. of E. stands for love of equity, and it has been left for the League of Educators to bring out, unify and foster this spirit of equality throughout the land. There is no other system like it, so don't be deceived, but make a careful study of the league's methods and you will discover that there is not, nor never has been anything like it.

It is a perfected, purely mutual, co-operative system, governed by association, unity, concentration, collective force, united action and effort. Being such it can never fail.

The time can never come when the endowments cannot be realized according to certificates of membership. The league is an established organization, not an experiment. It passed through the experimental stages long since. Endowments are being realized right along and many are being benefitted.

The management.

The central office and clearing house of the league is located in "The Temple" 184 La Salle street, Chicago, Ills.

District headquarters, from each of which local work is directed, have been established in the principal cities. The work of establishing others in territory where the league is not represented is constantly going on.

The affairs of the league are conducted by competent and trustworthy officers, advised by a substantial board of managers and corps of district directors.

Each district headquarters is in charge of a district manager and his assistants.

Attention is particularly called to the distinction between the management and the league proper. The members constitute the league. The managers of the league, are reliable business men of unquestionable character and reputation. This board of managers acts as agent and clearing house for the league, having agreed to act as such for each member in consideration of the $3.00 membership fee and the 5 per cent. of the endowment.

42–47

This amount must pay all running expenses of the league, salaries and everything else, so each member always knows what it is going to cost him or her for this service.

The league, being an association of co-operators cannot have liabilities of any kind. A member is responsible for no one's act save his own.

The treasurer is bonded in behalf of the members of the league for ten times the amount of the endowment by the Fraternal Societies Co-operative Indemnity Union, which is an association consisting of the leading fraternal organizations.

A full and comprehensive report as well as all news pertaining to the advancement of the league, and other matters of interest to members are published monthly in "The Vigilant," the official organ of the league.

Many members pay all endowment calls by recommendation.

Most members at all times exert themselves to secure new members because every time they secure one they not only receive this credit of 50 cents, but at the same time they are helping to lessen the amount of each *pro-rata* call.

The credit of 50 cents which members receive comes out of the $3.00 paid for membership fee, by the members whom they recommend; the balance goes to pay for agency work, printed matter, issuing of certificate, etc.

A membership in the league has never cost to exceed an average of $1.04⅛ per month, either in money or by recommendation credits.

It is human nature for every one to wish to derive the benefit of anything they see others being benefitted by, consequently every endowment realized is the direct cause of many persons applying for membership without solicitation.

The league is perpetuated by the incentive to members to secure new members in order to realize a part of the endowment each year, as well as through the efforts of co-workers who devote their entire time to the league.

Do not think that the time will come when sufficient numbers of members cannot be secured to keep the expense low, for every member becomes a spoke in this co-operative wheel which makes the endowment sure for each one, as long as the time lasts, for the reason that when members draw their endowments at a small expense they will immediately rejoin the league for another term. They, and all their descendants, will continue to do the same as long as they live.

Purely mutual co-operation is all there is to it, and just so long as people are willing to join the league and co-operate, each and every one can get the endowment at a small expense.

Educational department.

Children of any age can join the league and realize the endowment as a recompense for faithful co-operation, the same to be paid to and held in trust by the parent, guardian, college or other educational institution and used for the education of the child.

"Great ideas come when the world needs them. They surround the world's ignorance and press for admission." The world needs the L. of E. and its principles and is pressing for admission.

"Union does everything when it is perfect. It satisfies desires, simplifies needs, foresees the wishes and becomes a constant fortune," and as the union or plan of co-operation of the league's members is absolutely perfect it satisfies desires, simplifies needs, foresees the wishes and becomes a constant fortune. Investigate for yourself.

The fact that you are willing to have it so makes it so, for the reason that your influence combined with that of the rest of the members make it so. Nothing under the heavens can prevent it being so except your unwillingness to have it so.

If you are willing to co-operate with your fellow-man in this purely mutual way you can have home, peace, prosperity and happiness as long as you live. Why not do it? Your willingness to have it so makes it so, and nothing can prevent it except your unwillingness to join the league in good faith.

The L. of E. exemplifies the principles of true co-operation, and explains the way by which people can get what they want if only willing to co-operate to get it. It is easy.

"The test question is it true or good?" It is both, and an investigation will prove it.

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48 The mistakes of the blind.

It often occurs that a prospective member of the league, and sometimes a member, goes to some friend for advice about the league, with the result that the friend advises against it, unless his mind has been disciplined along co-operative lines, which enables him to understand the difference between commercialism and co-operation. Many well-meaning persons make the very common error of giving advice about things of which they are not informed, but no well-balanced person will make assertions or give advice until he has made a thorough study and investigation of the matter in questien. By questioning a person who makes a derogatory remark about the league, or its system of co-operation, it will be invariably found that the critic does not understand the league's plan; knows nothing about the value of purely mutual co-operation; does not know the difference between profit making and profit taking, and is viewing the league from a commercial standpoint instead of a co-operative standpoint.

When you hear a person making objections to the league just ask that person why he does not sustain his contention, and secure the thousand dollar reward, that the management offers to any one who can find a flaw in the league's system of co-operation. This offer is a *bona fide* one and is made in good faith for the purpose of gaining information from any one who thinks he has a greater knowledge of purely mutual co-operation than the management possesses.

A person can be "educated" and yet be utterly ignorant of things

they write or talk about, because they allow their prejudices to prevent investigation.

49–51 Remember that so long as there is such a thing as longevity, there can be no such elements as chance, risk or loss in the league's system of co-operation, for the reason it is an absolutely perfect, self-governing and self-adjusting system and is operated in accordance with the unalterable law that makes life and existence possible.

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52–55 The value of a dollar and whose is it.

The value of a dollar is only one hundred cents.

What makes it worth one hundred cents? Answer—The Government's stamp.

Who is the Government? Answer—The people.

Why do the people put a stamp on a piece of paper or metal and call it worth one dollar? Answer—So that it may be used as a medium of exchange, for convenience only.

Who are the real producers and owners of all the dollars? Answer—The people.

Do the people circulate, exchange and exploit their dollars to the equal advantage of each one and the good of the whole? Answer—No; they have access to only a few of the dollars that they have produced and consequently own.

What has become of the people's dollars? Why do they not use, exchange and exploit all of the dollars that they have produced and own? Answer—The profit-takers and the profit-taking organizations have taken the people's dollars and hoarded them for private gain instead of allowing the people to use, exchange and exploit their own dollars for the good of the whole.

What makes the league so much better than other organizations? Answer—Because the profit-taking feature has been left out of it and the people get all the dollars realized by their co-operation instead of allowing the profit-taking or middle men to step in and use up more than half of the people's dollars for private gain to themselves, which is being done by every organization that is operating under the present economic profit-taking system. Those who want the "promoters," "company" or "corporation" to use up more than half of the people's money in profit-taking for private gain, of course will not join the league, but those who want the people to have all of the dollars that they have produced and own will join the league at the first opportunity.

"We are members of one great body, planted by nature in a mutual love and fitted for a social life."

Why the league is so good.

It is so good because it is a profit-maker instead of a profit-taker. It is so good because it gives the co-operators or members 95 cents of every dollar realized by their co-operation instead of allowing a

"concern," "company" or "corporation" to use up more than half of each dollar by profit-taking. It is so good because the present profit-taking commercial system has been dispensed with and a profit-making co-operative system substituted which gives the people the full results of their co-operation instead of giving half or two-thirds of each dollar to the profit-takers.

As sure as death and taxes.

Why the league is without flaw, is absolutely safe and perfectly governed.

1st. Because its system of co-operation is always working between 25 cents and $500, the 25 cents being the limit at one end and the $500 being the limit at the other end.

2nd. There being a limit at both ends the system must necessarily be working between the two numbers mentioned above and designated as the limit each way, which makes it a perfectly governed automatic, self-adjusting system, in which no human being can find a single flaw.

3rd. If the membership increases at such a rate that a great many are entitled to the endowment at the same time, then the endowment call for each endowment is decreasing which makes it a certainty that it cannot become expensive, and each one realize the endowment at small expense.

4th. On the other hand, if the membership did not increase it could not become expensive for the reason that no one can be called upon for more than 25 cents for each endowment; therefore it will be seen that if there were many to realize their endowments the endowments would be decreasing and instead of there being a great many calls for 25 cents; the more there are to realize endowments, the less each one would have to pay on each endowment.

5th. The system being perfectly governed as heretofore described, it will be seen that each co-operator or member realizes a profit in accordance with the increase in the membership during his or her term of co-operation; for example: Two persons joining to one realizing gives $2.00 for $1.00; 4 persons joining to one realizing gives $4.00 for $1.00; eight persons joining to one realizing gives $8.00 for $1.00 and so on; thus the more co-operative service each member renders in the way of increasing the membership, the greater the benefit to each one.

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56 The very same principles, causes, reasons, powers and laws which enable companies, concerns and corporations to exist, apply to and enter into the league's system of co-operation, the only difference being, the former takes a part of each dollar of the people's money for private gain, and the latter gives the people the full value of each dollar.

Points on the Certificate.

Points on the certificate.

No. 1.—The preceding page gives the correct reading of the certificate of membership, which is printed on bond paper and issued to each co-operator or member at the time of joining the league.

No. 2.—This co-operative movement takes nothing from you and gives you money to a considerable amount in return for good faith, influence and service.

No. 3.—To have faith in the league it is necessary only to have faith in the best people in this country, who constitute the league. Faith in humanity; faith in one another is what each person should have before joining the league, because you are depending on one another for the endowment. The management of the league acts as your agent or clearing house only in receiving and disbursing the endowments, and the managers are in such a position so that it would be no object to them to make a single misrepresentation even if so inclined. What makes the league a success and produces the endowment at a small expense is the very fact that people are willing to join and co-operate with one another in this purely mutual way, and so long as they are willing to do this it will be no object to any of the members, or the management, to do anything wrong for the simple reason that either party's gain would be greater by not doing wrong.

No. 4.—By reading the second agreement of the certificate you will see that there is a limit of 25 cents on the endowment call for each endowment, therefore the endowment calls decrease as fast as the membership increases, which they are now doing very rapidly. This being true it makes no difference how many endowments there are to be realized; the more the better, because if a large number of persons are entitled to the endowment at one time a large number of persons must have joined the league all at one time, and each one helps decrease the endowment call for each endowment and makes it a certainty that it cannot become expensive.

No. 5.—It is an impossibility for the management of the league to prosper unless members realize the endowment at a small expense. The reason for this is because the membership must increase rapidly in order to make enough membership fees and enough endowments to be paid so that membership fees and the five per cent. of each endowment will make it remunerative to the management; therefore, what the managers would do for themselves they must of necessity do also for the members of the league because it is only by the increase of membership that they can prosper, and when the membership increases fast enough to make it remunerative to the management it is a certainty that members will realize the endowment at a small expense.

No. 6.—A sensible person would rather have the promise members of the league make, that they will pay their *pro-rata* share on his endowment when due, than he would the guarantee of any company

or concern; because the company or concern, by reason of mismanagement, might go to the wall, but there is no danger of all the members going to the wall at the same time, it being an easy matter to pay endowment calls by recommendation credits if a member should be short of money at the time an endowment call is due to be paid.

No. 7.—Every member should understand the relationship existing between the management of the league and the league itself. The League of Educators itself is a mutual society of co-operators composed of the very best people throughout America, who are co-operating with one another in purely mutual way. The management of the league is a clearing house entirely distinct from the league itself and acts as agent for the members after their applications are received; for which service the managers receive five per cent. of the endowment, the members receiving 95 cents of every dollar produced by their co-operation.

No. 8.—A bank, trust or investment company might fail, but it is an impossibility for the league to fail, for the reason that
57 members rely on one another for the endowment which consists of one *pro-rata* call on all the members.

No. 9.—It will be seen by the certificate, that the endowment always consists of one *pro-rata* call on all the members, the limit of the endowment being $500. This makes the plan absolutely equitable between all members, and does not hold a loyal member responsible for some other member's failure to live up to the certificate of membership by neglecting to pay endowment calls. This is purely mutual co-operation and is just the way every member wants it, if he or she understands the system. This is why it is an impossibility for the league to ever fail, or for the time to come when the endowments cannot be realized according to the certificate of membership. This is why it is an impossibility for it to cost any member any more than his or her *pro-rata* share in order to realize the endowment. Purely mutual co-operation says that "each one's *pro-rata* share to pay cannot be any more than it should be," and the *pro rata* share to pay is always in proportion to the amount realized as the endowment; therefore every member or co-operator is absolutely sure of all he or she is entitled to, the amount always being 95 cents of every dollar produced when the endowment call is made.

No. 10.—The certificate of membership is a valuable document because it is guaranteed, protected and backed by the whole membership of the league, all of whom would have to cease paying endowment calls at the same time, thereby depriving themselves of the endowment before a certificate would become worthless.

No. 11.—Those who understand the relationship existing between the management of the league and the members, will see at once that every vestige of chance or risk on the part of members is eliminated; for the reason that the managers are placed in a position so that it is an impossibility for them to hurt a member's interest with-

out hurting their own, or to help their own interest without promoting equally the interests of all the members.

No. 12.—Any one who hesitates to join the league for fear it might become expensive, overlooks the *pro-rata* endowment call feature. How can it become expensive when the very fact of each one "joining" helps decrease the endowment call for each endowment, and if people do not join so as to increase the membership rapidly then there are not so many endowment calls to be made. This guarantee against becoming expensive comes by reason of the endowment consisting of the amount realized by one *pro-rata* call on all the members said amount being limited to $500 and the endowment call for each endowment being limited to 25 cents, which amount decreases as fast as the membership increases.

No. 13.—The certificate is not a contract. It is simply an agreement between members, to co-operate with one another in a purely mutual way, and to pay his or her *pro-rata* share either in money or by recommendation, when a member is entitled to the endowment. Each one must do this or be deprived of the endowment, hence this certificate is safer and better than a contract be it ever so binding. This purely mutual system of co-operation being governed by the co-operators or members is what makes the certificate of membership a valuable document, for the reason that members are depending on one another for the endowment, and not on some concern or company that might not be able to carry out its part of the contract.

No. 14.—The treasurer of the league, Mr. Martin J. Baxman, receives the endowment money and disburses it each month to the co-operators or members for whom endowment calls are made. The members drawing the endowments take no chances by reason of the treasurer receiving the money, for he is bonded for ten times the amount of the endowment by the Fraternal Societies Co-operative Indemnity Union, and the custodian of the bond is Mr. V. E. Nichols, cashier of the 1st National Bank of Englewood, Chicago, Illinois, who holds the same for the protection of, and in behalf of members, until they draw their endowments.

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58 *Points in the League's System.*

Fighting for a principle.

The management of the League of Educators has been fighting for a principle since 1898 and that principle is "purely mutual co-operation." At last every obstacle has been overcome and the league's banner of equity and liberty is peacefully floating on the breezes. It has finally dawned upon the self-designers that purely mutual co-operation can never be downed and that it will win on its own merits, simply because it is right and right makes might.

Profit taking and profit making.

Almost everybody is in the profit taking business. If you talk to them about how they can buy and sell, trade and make a commercial deal, they readily understand you, but when you come to talk to them about profit making, which is purely mutual co-operation, they do not, nor cannot, understand you until their minds have been disciplined along profit making or co-operative lines. When they under-tand that profit making manifolds many times faster to each individual than profit taking everybody will want the profit making system, which is the league's system of co-operation. Thousands of people all over the country are opening their eyes to the fact that a profit making system will produce $10.00 for them quicker than a profit taking system will produce $1.00.

Profit taking benefits the few to the detriment of the many. Profit making benefits all alike. Producing plenty for all by co-operation.

The referendum.

The referendum is employed and recognized to its fullest extent in the management of the league's affairs, inasmuch as the same principle of purely mutual co-operation existing between members also exists between the management of the league and the members, which places both parties on their own deportment and at the same time removes all incentive or motive for either party to do anything that would be detrimental to the best interest of the other party.

The unalterable law.

The basis of the life of the league is no different than that of other organizations. Every organization must continue to add to its membership in order to exist, and will not 95 cents of each dollar go farther towards existence than 40 or 60 cents of each dollar? Common sense and reason point the way very clearly. Nothing can exist by itself, no being, no mind, no thought—but each and all are linked together, associated by unalterable law. There is no part of human life, either function of the brain or impulse of the heart, that is at any time self-dependent. We are constantly drawing upon others for aid, just as we are doing in the league's work, no matter where we are or in what position we are placed. We could not exist otherwise. Many intelligent men (by reason of not having disciplined their minds along co-operative lines) disregard this unalterable law when they say the league's plan is "too good to be true; you can't get something for nothing, etc." Association, unity, purely mutual co-operation, concentration, collective force, united action and effort all say that it is not too good to be true.

Something for nothing fallacy.

The remark is often heard, "You can't get something for nothing." Every intelligent person knows this is true, but every intelligent person does not realize what elements take the place of

"nothing" in the league's work. Speaking of dollars and cents in a commercial way we all know that "you can't get something for nothing," but speaking of dollars and cents from a purely mutual co-operative standpoint we all know, or should know, that we can get a great many dollars for a few, by each rendering so much co-operative service.

In the cause of "purely mutual co-operation" the faith, good-will and service of each one is valuable, and it is the value of these fundamentals which enables each member of the league to realize so many dollars for so few. Those who understand the difference between commercialism and purely mutual co-operation will never suggest the "something for nothing" theory when talking about the league.

59 The proper relationship.

The object of this article is to show the proper relationship between the management of the league and the league itself, which is a purely mutual society of co-operators or members who live in all parts of the country and who are co-operating with one another in a purely mutual way.

In order to transact the business and co-operate with one another in this way it is necessary that these co-operators or members appoint an agent and have a clearing house at some central point where the endowment calls can be received and disbursed at the proper time. Accordingly a board of managers was appointed to act as agent and a clearing house legally organized, which constitute the management. The managers of the league are business men of unquestionable character and reputation, who have confidence enough in humanity to trust the people, inasmuch, as they give their services in advance practically without compensation (as well as bearing the expense of each membership in the way of postage, clerical work, etc.), until the co-operator or member realizes the endowment, at which time the management receives the 5 per cent. for its services. Thus it will be seen that the managers are interested in each co-operator or member receiving the endowment as soon as he or she is entitled to it so that they may receive their remuneration for the services they have rendered in advance. The management of the league has undertaken the work for these co-operators or members believing that people will continue to join the league and co-operate with one another fast enough to make enough endowments to be paid so that the 5 per cent. of the endowment will make it profitable to them.

It will be seen by the foregoing that it is an impossibility for the management of the league to prosper unless these members or co-operators realize the endowment at a small expense, therefore, what the managers would do for themselves they must of a necessity do also for the members of the league.

The managers of the league are placed in such a position so that there can never be any motive on their part to do anything wrong, and it being true that the management cannot do anything that

would be detrimental to the co-operators or members without hurting its own interest proportionately makes it so that the members of the league are relieved of all anxiety and concern relative to the management of the league's affairs.

Every age has its true prophets.

Edward Bellamy foretells the league's system of co-operation in his great book "Equality" in the following language:

"There had been many, you must know, Julian, who, while admitting that a system of co-operation must eventually take the place of private capitalism in America and everywhere, had expected that the process would be a slow and a gradual one, extending over several decades, perhaps half a century or even more. Probably that was the more general opinion. But those who held it failed to take account of the popular enthusiasm which would certainly take possession of the movement and drive it irres-tibly forward from the moment that the prospect of its success became fairly clear to the masses."

"With a doctrine to preach of so compelling force and beauty, promising such good things to men in so great want of them, it might seem that it would require but a brief time to rally the whole people to its support."

"It meant that the interest of the many instead of the few, the welfare of the whole instead of that of a part were henceforth to be the paramount purpose of the social order and the goal of its evolution."

"The great enthusiasm of humanity which overthrew the old order and brought in the fraternal society was not primarily or consciously a godward aspiration at all. It was essentially a humane movement. It was a melting and flowing forth of men's hearts toward one another, a rush of contrite, repentant tenderness, an impassioned impulse of mutual love and self-devotion to the common weal."

"I am bound to say that nothing that is rational seems impossible in the way of social adjustments when once you assume the existence of that condition."

"Working in concert with his fellows by aid of the social organism, he and they produce enough to support all in the highest luxury and refinement. Toiling in isolation, human experience has proven that he would be fortunate if he could at the utmost produce enough to keep himself alive."

"Then there was nothing whatever to prevent the people at any time, if they just willed it, from making an end of their sufferings and organizing a system which would guarantee their equality and prosperity."

"Common sense is the knack of seeing things as they are and doing things as they ought to be done." We have seen and are doing. We want you with us.

60

A dollar is a dollar.

The only difference is the way it is handled or exchanged. Is it not a fact that the value of a dollar as a legal tender is just the same whether it be placed with one organization or another? A dollar represents one hundred cents, and the more of that one hundred cents that goes to the members of an organization the better the organization is for its members. Now contrast an organization which gives its members 95 cents of every dollar produced with an organization which only gives members from 40 to 60 cents of each dollar produced, and you have the difference between the league and other organizations, or, in other words, the difference between an organization with a purely mutual system of co-operation, which gives its members the full benefit of the results of their co-operation and an organization which gives the most of the benefit of the result of its members' patronage to the other fellow, namely the company, promoters and officers who draw a large salary, on account of the people not understanding the value of purely mutual co-operation or what they can accomplish by co-operating with one another in a purely mutual way.

About exploitation.

The present economic profit-taking system causes corporations, companies and promoters to exploit people for private gain, but under a purely mutual co-operative system like the league's, dollars are exploited instead of people. Is it not safer and more humane to exploit money than human beings? Is it not a fact that all profit-taking organizations exploit both money and human beings for private gain? Is it not better to quit exploiting human beings and exploit money for the good of the whole? Money like fertilizer is of very little use unless it be spread. What do you think of a farmer who stacks up his fertilizer by the side of his barn instead of spreading it over his land? What do you think of organizations that are money heapers and hoard up millions of money for surplus and a reserve fund? Is not this surplus and reserve fund like the farmer's fertilizer before it is spread? How can posterity reap the benefits of this great accumulation of money if the profit takers continue into posterity by giving the people less than 50 cents of each dollar. What is money for anyway if it is not to spread, exchange and exploit in any way that will bring the greatest good to the greatest number. True co-operators are willing to exploit dollars for profit making, but never human beings for profit taking.

I will.

"I will" is the motto of a great American city but it applies more appropriately to the great American people who are now recognized by all nations to be the most progressive people on the face of the earth. The American nation is first in every great movement and that it should be the first to recognize and work out a national co-operative system by which the human race is being gradually fed-

erated is only in keeping with its traditions and past achievements. The American people as a nation do not know any such thing as failure and they are bright enough to know that failure is an impossibility when the will of the people will prevent failure. In other words the voluntary act on the part of the people in joining the league makes it a certainty that each one can receive the benefit at a small expense for the reason that the increase of membership makes it so. No power or influence can keep the American people from operating a profit making system of co-operation like the league's when it is generally understood by them that they are masters of the whole situation and that the willingness on the part of each one to have it so makes it so. You know that you can trust the American people and count on them co-operating with you for the purpose of profit making when it is clear to them that profit making or co-operation will bring much better returns than profit taking.

No progress without will.

"All the grand agencies which the progress of mankind evolves are the aggregate result of numerous wills." This very fact is making the league a great success because the will of the people makes it so. They are masters of the situation for the reason that the voluntary act on the part of each one in joining the league makes it a certainty that the league's plan is practical. Victor Hugo tell us that "people do not lack strength; they lack will." "Unity, association of wills, or many wills," is what gives strength to any great movement. This is no less true in the league's case. People all over the country are rapidly realizing the fact that all of the benefits of the league's system of co-operation are a certainty, simply by them willing it so. Where is the man, woman or child who does not want to realize the league's benefits? Such persons do not exist because such a feeling is contrary to human nature. Away with the beguilers; the American people are not lunatics. Their will is supreme and let no one think they will want for "any good thing" when it is within the reach of every one who will say "So be it."

61 The status of the league in each State.

The league's system of co-operation is based on the Constitution of the United States which gives the people in each State a constitutional right to co-operate with one another in this purely mutual way. The league is not an insurance or investment company but a purely mutual society of co-operators who are realizing 95 cents of every dollar produced by their co-operation. It is a co-operative system without provisions or conditions, and without the profit taking element, so, therefore, does not, or cannot, come under the jurisdiction of any of the State departments. It requires no laws to regulate it except the law of equity and liberty which gives every citizen in each State the right and privilege to co-operate with his fellow-man in this purely mutual way without restriction. It would

be an insult to the intelligence of members in any State for anybody to try to make them believe that they cannot join the league and co-operate with one another in this purely mutual way. The people in each State have a constitutional right to co-operate with one another and appoint whoever they choose to act as their agent and no one can prevent it so long as the American people have their liberty. The judiciary of each State are only too glad to welcome such a system of co-operation in the Commonwealth and to safeguard it from the attacks of profit taking self designers. Any other attitude towards the league would indicate a desire to interfere with the constitutional rights of the people.

About production.

Does the farmer's stack of fertilizer produce anything but a few weeds around it until it is spread? Does the organization which has heaped and hoarded a lot of money produce anything? Does not the paltry interest accruing come by reason of exploiting the human beings who pay the interest? Is the man who says the league does not create or produce anything a producer himself? Is he not in the profit taking business which compels him to exploit his human brother who is the real producer? Does not real production come by labor at first hands? Is it not better to join the league and inaugurate a system of profit making by exploiting dollars, which is far more profitable, than to continue profit taking by exploiting human beings?

Think about this and you will join the league and *because* a true co-operator.

Profit taking *vs.* co-operation.

With the present economic profit taking commercial system the company, promoters and officers are under a constant temptation to mis-use their power for the private profit of themselves, but under a profit making, or co-operative system like the league's, there is absolutely no way, the management of the league or an officer, however ill-disposed, could possibly make any profit for themselves, or any one else, by a misuse of their power.

What makes people afraid of one another? What makes one man mistrust another? What makes the people suspicious of everything and everybody? It is because the present economic profit taking commercial system offers a premium on dishonesty, but these are matters which the masses can only understand as the people come to see and realize the difference between profit taking and profit making, or a purely mutual system of co-operation which gives them the full benefit of the result of their co-operation instead of giving half or two-thirds of it to the company, promoters and officers who live off of the people by profit taking.

About beguilers.

When you hear a derogatory remark about the league, (which means a derogatory remark about the best people in this country

who, as true co-operators, constitute the league) you will be safe in putting it down as emanating from the agent of some wild-cat insurance company. First-class insurance companies are in favor of the league, for the reason that it enables a great many people to carry legitimate insurance, who could not do so otherwise. Remember that people who are afraid of the league or hesitate to join, have no confidence in themselves or anyone else. Every incentive or motive for wrong doing, either on the part of the management or members, is entirely removed. Inasmuch as all interested are on their own deportment, and are placed in such a position, so that no one can make a single moye that would be detrimental to the other's interest without injuring himself proportionately. This is true by reason of the plan being purely mutual and on a profit-making basis instead of a profit-sharing basis; the latter being a profit-taking system, and the former being "purely mutual co-operation" with a profit-making system, which is a collective wealth distributing system that gathers plenty for everybody and spreads it equally.

62 The league's unique position.

Attention is called to the fact there is no other enterprise of any kind in the world that bears the same relationship to the people as does the "League of Educators." The reason of this is because the same principle of purely mutual co-operation does not exist between other enterprises and their patrons that exists between the management of the league and its members. By reason of our present profit taking commercial system the conduct of the business of nearly all enterprises must of necessity be kept a secret in order that the company, promoters, officers and entire management may protect their interests. Such is not the case with the management of the League of Educators. There are absolutely no secrets of any kind or nature used in the management of the league's affairs. Everything is as an open book because in "purely mutual co-operation," the more publicity the more prosperity to all concerned hence all books, papers, cards and everything else used in connection with the business is open for inspection.

Common sense points.

1st. Co-operation in some form enters into all business enterprises. They could not exist otherwise. Is it not a fact then that purely mutual co-operation—co-operation without provisions and conditions (the provisions and conditions always being the promoter's device for making money) is the best form of co-operation, because it gives the co-operators or members the full benefit of the results of their co-operation?

2nd. Don't common sense and reason teach that an organization which gives its members 95 cents of every dollar produced by their co-operation is better than organizations that use up from 40 to 60 per cent. of their members' money in running expenses and profits to their promoters? This very fact has opened the eyes of many thinking men and women who are joining the league very fast.

3rd. Bear in mind that a purely mutual system of co-operation (co-operation without provision and conditions) gives each co-operator or member all that he or she is entitled to, because it is a collective guarantee which cannot fail and not a concern or company guarantee which often fails. This being true every vestige of chance or risk on the part of members of the league is eliminated.

"Truth is established by investigation. Men must love the truth before they thoroughly believe it."

Expense.

All posterior students will concede the fact that the league's membership cannot help but grow rapidly for many years to come, but suppose it did not, how could a membership become expensive, for if the membership does not increase so rapidly then there would not be so many endowment calls to be made, and if it does increase rapidly each one helps decrease the endowment call for each endowment which prevents it from becoming expensive. This guarantee against it becoming expensive comes by reason of the endowment being limited to $500 and the endowment call for each endowment being limited to 25 cents. As the limit of the endowment is $500 it will be readily seen that as the membership increases the endowment call for each endowment decreases; for example:

2,000 members at 25 cents for each endowment	$500
5,000 members at 10 cents for each endowment	$500
10,000 members at 5 cents for each endowment	$500
50,000 members at 1 cent for each endowment	$500

The number going out at one time, no matter how many, is controlled by the number going in. The only thing each member is interested in is how fast people are joining the league. The going out part takes care of itself. If a large number are entitled to the endowment at one time it is a certainty that this same number joined the league at the same time and each one of this large number helps decrease the endowment call for each endowment which prevents it from becoming expensive no matter if 500, 5,000, 10,000 or any other number of persons should be entitled to the endowment at the same time.

Thus it will be seen that this co-operative plan is harnessed at both ends, works automatically and is self-adjusting so that the average or basis from which to compute is always absolutely correct and in accordance with the increase of membership.

The league's badge.

The emblem of the league is a beautiful badge representing two parallel bars of equal size, thus indicating equality, with the letters L. of E. and the word "Equality" artistically engraved thereon.

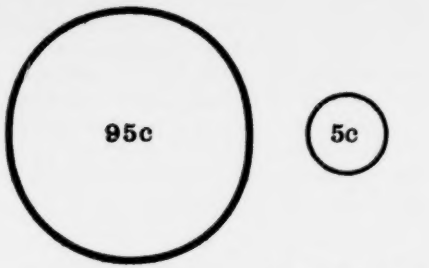
"We must be doing something to be happy. Action is no less necessary to us than thought."

63 Service.

The very life and essence of our being is service, and service means co-operation, and true co-operation means that the people's service is an earning power which belongs to them exclusively. Is it not right then that the people should receive a great many dollars for a few when they have rendered enough service to make them entitled to it?

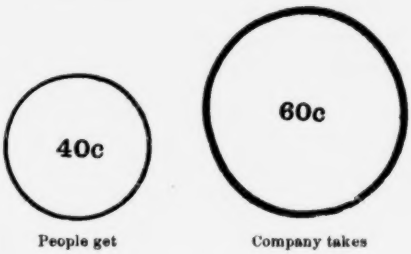
League's method.

The League of Educators gives its members purely mutual co-operation—purely mutual co-operation is co-operation without provisions and conditions and without the profit taking element—it gives its members 95 cents of every dollar handled, just as the following circles illustrate.



Profit take-s' method.

Other organizations on profit-taking lines, making use of privileged co-operation, which is co-operation with provisions and conditions and with the profit-taking element therein, are compelled to devote so many dollars to expenses of all sorts, that sundry provisions and conditions are introduced, that cut down the members' share of the dollar more than half. The average taken by sixty of the leading concerns is 60 per cent. or 60 cents out of each dollar. These circles show the relative shares.



Extended comment is unnecessary. What methods are best for your dollars?

As a matter of fact the promoters have taken more than 25 % of all moneys collected for expenses.

The difference.

Co-operation in some form enters into all human institutions; they could not exist otherwise; but there are two kinds of co-operation, as follows:

Purely mutual co-operation.

Purely mutual co-operation can exist only by each person sharing in equity. If you believe that the people as a whole are the producers of all money and wealth, then you must be honest enough to admit that they should share in equity each one having rendered his amount of service. Purely mutual co-operation will last longer than privileged co-operation, for the reason that all of each dollar which the people have produced, and consequently own, will last longer than only a part of each dollar, the other part having been used up by the profit-takers for private gain.

Privileged co-operation.

Privileged co-operation exists by reason of a few profit-takers using the co-operation of the many for private gain. If you believe that a few should make the many render the service, and take the lion's share for themselves for private gain, then you believe in privileged co-operation. Privileged co-operation, which is prevalent in our present economic profit-taking system, cannot last as long as purely mutual co-operation, for the reason that when the profit-taker is privileged to take a part of each dollar of the people's money for private gain, then the dollars which the people have produced and consequently own, will not last so long.

The endless system.

The many ideas of the populace clash when speaking of the league and its work. This is caused by reason of so many not understanding the principles of true co-operation. One person says, "It is an endless system," another says, "It cannot last," "Where will the last members land," etc. The first person is wrong because nothing in human affairs is everlasting; things that are eternal belong to the Eternal—not to mortals, but the league can last longer than most human institutions, because under its system of co-operation one individual counts the same as eight individuals in other organizations.

The second person who wants to know where the last members will land, over-looks the fact that the same principles which enter into the life of the league, enter into the life of every other organization, namely: New members—new blood.

Without numbers there can be no organization, and so therefore when an organization ceases to get new members it is only a question of a little time until there is no organization. This unalterable law applies to every organization on the face of the earth.

"Truth and love are two of the most powerful things in the world; and when they both go together they cannot easily be withstood."

64 Its ethics and philosophy.

The life of the league is identical with the life of human beings. The same fundamentals that make it possible for human beings to exist and go -hrough the routine of life from day to day are the same principles, the same rules of duty and the same moral laws that enter into and make up the system of co-operation as applied by the League of Educators, therefore a person who opposes the league renounces the principles, causes, reasons, powers and laws which make his own existence possible. Everything that the people do from the time they rise in the morning until they retire at night is done by adhering to the unalterable law of drawing upon one another in precisely the same way that the endowment is realized for each member of the league.

It is only through the associate willing of the many that such great things are made possible as are accomplished by the League of Educators. No "concern," "company" or "individual" can do any such thing, but the people throughout the country who constitute the League of Educators can do it, just as long as they will it so.

There are three great fundamentals in both collective and individual life, faith, good will and service, all of which enter into the life of the League of Educators, it being a co-operative body of people who have faith in one another, faith in humanity and who believe that the people as a whole can be trusted implicitly, and that their faith, good will and service collectively is safer and better than all the promises made by concerns, companies or individuals.

L. of E. posterity.

Will it last? is often asked. It will last longer than other organizations because 95 cents of each dollar will go further into posterity than 50 cents of each dollar.

The people have only so many dollars and they are worth 100 cents each. Will not 95 cents of the 100 cents last the people longer than only 50 cents of each dollar; the other 50 cents having been used up by the "concern," "company" or "promoters" for private gain? For example:

If you have $100 to put into potatoes you can purchase only 100 bushels if they are selling at $1.00 per bushel. On the other hand, if you have but $50 to put into potatoes you can purchase only half as many bushels. Which would you rather have—the $100 or the $50 with which to purchase potatoes? Wouldn't the $100 worth of potatoes last the longer? Will not $1.00 purchase more of anything than 50 cents?

Definition of profit-making and profit-taking.

A profit taking system is a relic of serfdom and emulates the "master" idea, inasmuch as the people pay a profit to a few profit-takers, when they could just as well save the profit by doing the business themselves by co-operation.

A profit making system which is the league's system of co-operation is a system by which the people share equally; the profit-taking element being left out of it. Which do you want, the profit-making system which gives you the full results of your efforts, or the profit-taking system which gives you only a part of the results of your efforts, the other part going to the profit-taker for doing that which you can do yourself by co-operation.

A paradox.

The person who says the league is "too good to be true" is right and the person who says the league is not "too good to be true" is also right. The reason this is so is because the "will" of each one of these individuals makes each one of them right. The first person is not willing to have it so, therefore, it will not be so with him. The second person is willing to have it so because he knows enough about purely mutual co-operation to know that the very act on the part of each one in joining the league makes it a certainty that each one can realize the endowment at a small expense for the reason that the increase of membership or the willingness of each one to join the league is what makes it so. Illustration—Suppose a member has six friends and explains the league's plan as best he can to those six friends. Suppose three of those friends do not know anything about the value of purely mutual co-operation, or what people can accomplish by co-operating with one another in a purely mutual way. They will say at once that it is "too good to be true" and will continue to say it until their minds have been disciplined so that they can understand the league's plan. So long as those three friends are in an unwilling frame of mind they cannot enjoy the league's benefits. On the other hand the other three friends who understand the league's plan, perhaps by reason of reading and training their minds along co-operative lines, will say at once that it is not "too good to be true;" therefore, the last three friends will realize the league's benefits while the first three will continue to plod along in the same old, selfish way until they eventually realize the force of purely mutual co-operation, or the *y*alue of united action and effort.

65 This is a mutual affair.

The relationship existing between the management of the league and the members is purely mutual and therefore, makes the league absolutely safe because both the members and the management must do their duty or neither party can be benefitted.

The managers of the league are placed in such a position so that their interest in the league is such as to make it impossible for them

to hurt a member's interest without hurting their own, or to help their own interest without promoting equally the interests of all the members, so therefore, what the management would do for themselves they must of a necessity do also for the members of the league. This same principle of individual duty and requirement applies equally as well to members inasmuch as each member is placed in such a position so that he or she must be loyal to the league and uphold it on every occasion or be injured in proportion to his or her disloyalty.

What a wonderful achievement this is in this the 20th century inasmuch as the American people at last have a society of order and reason; an exhibition of what intelligent co-operation can accomplish. The management of the league has an abiding faith in the American people and knows that they are with it in this onward march for the betterment of the social and living conditions of the people of this country which can only be attained by the league's purely mutual co-operative system which is being applied in many ways for the good of humanity.

Why the league is solid.

Because its members are intelligent, reasonable people who have joined because they have faith in the league's system; faith in one another, and know that by working in unison each can honestly realize valuable benefits.

Each certificate is backed by the word and honor of the whole associated body of members, and thus is valuable. The league is founded not on chance or untried theory, but on tested ideas and on an exact mathematical basis.

No member is ever allowed to join with his eyes closed. Every detail of the league's plan, and its actual working is an open book to all. Honest self-interest impels every member to become a co-worker in earnest; hence the league grows of its own accord, and cannot be restrained by any possible combinations.

Absolute control of the league rests in the hands of the aggregate membership, and is not vested in any individual or set of men. Honest self-interest makes each member valuable to the league just as it makes him a useful citizen in our country. Purely mutual co-operation, actually applied removes every element that in all other affairs not thus conducted are sources of fatal weakness. There is not the tiniest motive for any person connected with the league in any capacity, to co-operate in any other way than that of honesty, fairness, uprightness and equality; for it is only by the genuine application of such principles that the best realization will surely follow.

No gain by lapse.

People who understand the league's system of co-operation know that the "gain by lapse" element does not enter into the plan, for the reason that when a person drops out, it is not necessary to secure the required new members, which would have been necessary had

he remained loyal. The few members who secede are those who do not understand the principles of true co-operation; by their secession they relieve the loyal members from carrying dead weight or ever responding to a call for them.

Expense is governed.

The expense or *pro-rata* share for each one to pay (either in money or by recommendation) is directly governed by the increase of membership. Monthly calls cannot become excessive because the endowment is limited to $500, and the endowment call for each endowment to 25 cents, the latter decreasing as fast as the membership increases.

Contingencies.

There are two contingencies or ways by which one can realize the endowment. The first is by securing three new members each year which entitles the member to one-fifth of the endowment each year. The second entitles the member or co-operator to a *pro-rata* call on the *the* members for $500 at the end of five years as a recompense for faithful co-operation, if he or she should not take advantage of the privilege of realizing a part of the endowment each year.

Co-operation as applied by the L. of E. is the very foundation upon which the American nation must build if its people strive to reach that perfect state of living as described by Edward Bellamy in his great book entitled "Looking Backward."

66 Do not forget that no new principles are advocated herein, nor new methods or theories presented. It is the same old process that the human race has always used, the only difference being that the profit-taking element for private gain has been dispensed with, thus giving the people their full earning power and full results of their co-operation.

Living Monuments of True Co-operation.

A partial list of those who have realized so many dollars for a few through the league; every one of them realized more than $8.00 for $1.00.

Mr. H. W. Burnett, 4514 Princeton Ave., Chicago, Ill.
Dr. H. E. Whitney, Otsego, Mich.
Mr. B. J. Ragatz, Vineland, Mich.
Mr. Ray Hemingway, Benton Harbor, Mich.
Mr. W. D. Godefroy, Cape Girardeau, Mo.
Mr. C. D. Woodin, Millburg, Mich.
Mrs. Frank France, Grand Rapids, Mich.
Mr. J. F. Green, South Chicago, Ills.
Mr. Roy F. Wallace, Benton Harbor, Mich.
Mr. E. C. Burger, Benton Harbor, Mich.

Mr. Oscar J. Smith, Benton Harbor, Mich.
Mr. Herman Freitag, St. Joseph, Mich.
Mr. James U. Dwan, Benton Harbor, Mich.
Mr. Franklin N. Dewey, 290 Broadway, N. York city.
Mr. Ira Wells Riford, Benton Harbor, Mich.
Mr. Anthony Schuch, Edwardsville, Ills.
Mr. Frank M. Hoffman, South Bend, Ind.
Mr. John M. Gaynor, Benton Harbor, Mich.
Mr. Theodore Krieger, Watervliet, Mich.
Mr. Stephen H. Foulkes, Terre Haute, Ind.
Mrs. Thomas Gibbons, St. Joseph, Mich.
Mr. William H. Weber, Benton Harbor, Mich.
Mr. John Smith, Edwardsville, Ills.
Mr. A. I. Haney, Fennville, Mich.
Mrs. John H. Dillon, Belleville and Fosterburg, Ills.
Mrs. Harry O. Parker, Niles, Mich.
Mrs. M. E. Younger, Bunker Hill, Ills.
Mr. Charles A. Bowman, 417 W. 61st St., Chicago.
Mr. Percy Little, Dowagiac, Mich.
Mr. William Hancock, Alton, Ills.
Mr. Joseph Goldbaum, Benton Harbor, Mich.
Mr. John W. Charlwood, Marion, Ia.
Mrs. T. C. Hance, Niles, Mich.
Mr. James McNeilly, Jr., Edwardsville, Ills.
Mrs. Anna Ledger Benson, 5223 Wentworth Av., Chi.
Mr. Frank Fricke, Belleville, Ills.
Mrs. Edith Wharff Williams, Edwardsville, Ills.
Mr. Delbert Knapp, Benton Harbor, Mich.
Mr. H. E. Nyquist, 662 W. Huron St., Chicago.
Mr. Theodore F. Ambrosius, Collinsville, Ills.
Mr. Arthur H. Phelps, St. Joseph, Mich.
Mrs. L. H. Boal, Hinchman, Mich.
Mr. Harry Dankenbrink, Marine, Ills.
Mr. Ward Haven Marsh, Galien, Mich.
Dr. Earl S. Niblack, Terre Haute, Ind.
Mr. Henry A. Zeller, Jr., Whitehall, Mich.
Mrs. Fred A. Wood, Watervliet, Mich.
Mr. W. W. Warnock, Divernon, Ills.
Mr. Gustave Freitag, Detroit, Mich.
Mrs. Albert W. Erwin, Elkhart, Ind.
Mr. Roy P. Shafer, Jerseyville, Ills.
Mrs. Charles E. White, Niles, Mich.
Mr. Frederick A. Prentiss, Bunker Hill, Ills.
Mr. John H. King, Benton Harbor, Mich.
Mrs. J. C. Osborne, Pana, Ills.
Mr. Herman Bergh, 670 N. Campbell Ave., Chicago.
Rev. Audrey A. Todd, Shelbyville, Ills.
Mr. James I. Dilliard, Collinsville, Ills.
Mr. Fred C. Bakeman, Dowagiac, Mich.
Dr. John H. Setzler, Aspen, Colo.

Mr. Harry F. Motz, Edwardsville, Ills.
Mr. Leon L. Vanderbeck, Kalamazoo, Mich.
Mr. Thos. J. Fitzsimmons, Nat'l Stock Y'ds, Ills.
Mr. Oscar L. Dorsey, Gillespie, Ills.
Mr. Norman T. Preston, Eau Claire, Mich.
Mr. Ira L. Hemingway, Benton Harbor, Mich.
Mr. Thomas V. Utt, 3612 Washtenaw Ave., Chicago.
Mr. H. A. Minor, Mulberry Grove, Ills.
Mr. H. F. Henricks, Bunker Hill, Ills.
Mr. Jesse W. Cobb, Lawrence, Mich.
Mrs. C. J. Closson, Blackwell, Okla.
Mr. Asa M. Blass, 115 Pratt St., Elkhart, Ind.
Mr. Bert P. Bartlett, 701 Ass'n Bldg., Chicago.
Mrs. K. F. Matthews, 1798 W. North Ave., Chicago.
Mrs. Freda B. Sietz, Como, Ills.
Mr. R. H. Conway, Cynthiana, Ky.
Mrs. A. H. Seim, Wallingford, Ia.
Mr. John C. B. Whiteside, Edwardsville, Ills.
Mrs. F. Vogel, Grand Haven, Mich.
Mr. Joseph M. Drew, Houghton, Mich.
Mrs. Clarence J. Birkholm, Benton Harbor, Mich.
Mrs. Dora Thayer, Benton Harbor, Mich.
Mr. Chas. J. Hutton, Gillespie, Ills.
Mr. Samuel K. Bucknell, E. St. Louis, Ills.
Mr. Chas. G. Love, Ellensburg, Wash.
Mr. John H. Schafer, Marine, Ill.
Mr. Percy H. Stout, Terre Haute, Ind.
Mr. Louis E. Wangelin, Belleville, Ills.
Mr. Henry Hans, Edwardsville, Ills.
Mr. A. R. Arford, Benton Harbor, Mich.
Mr. Burton H. Thompson, Coldwater, Mich.
Mr. Gustave Schaub, St. Joseph, Mich.
Mr. Elmer G. Brown, Mulberry Grove, Ills.
Mr. Edward F. Gleason, Sodus, Mich.
67 Mr. Frank Heffner, Watervliet, Mich.
Mr. George Schade, Collinsville, Ills.
Mr. Phineas L. Dodge, Pana, Ills.
Mr. Ralph S. Ireland, Dowagiac, Mich.
Mr. John W. Kinney, Benton Harbor, Mich.
Mr. John Sido, Edwardsvills, Ills.
Mr. Samuel Lehrberg, 3424 Forest Ave., Chicago.
Mr. Wilbert Burket, Benton Harbor, Mich.
Mr. Ben J. Johnson, Edwardsville, Ills.
Mr. James J. Burns, Edwardsville, Ills.
Mr. Walter J. Nickless, Whitehall, Mich.
Mrs. Anna C. Marrs, Pipestone, Mich.
Mr. Charles F. Umholtz, Niles, Mich.
Mr. I. Edward Sanford, Bunder Hill, Ills.
Mrs. Olive B. Nutting, Cadillac, Mich.
Mr. Charles G. Pape, Fort Wayne, Ind.

Mrs. H. W. Lewis, Alton, N. Y.
Mr. Gust. Holzweg, Collinsville, Ills.
Mr. Henry M. Robinson, Benton Harbor, Mich.
Mr. Raymond R. Van Gorder, Benton Harbor, Mich.
Mr. Gottlieb Kriesel, Whitehall, Mich.
Mr. Jacob L. Blitz, Coldwater, Mich.
Mr. Rudolf Zeitsch, Holland, Mich.
Mr. Caper V. Funke, Edwardsville, Ills.
Mr. Fred H. Baldwin, Perry, Ills.
Mr. Ernest Hoffman, Benton Harbor, Mich.
Mr. Charles M. Neely, Terre Haute, Ind.
Mrs. Chas. Wright, Chicago, Ills.
Mrs. Bertha Kuppernus, Fairland, Mich.
Mrs. Chas. A. Tuttle, Farmount, N. Dakota.
Mr. Luther H. Martin, Dowagiac, Mich.
Mrs. Mae Wertzberger, Ottawa, Ills.
Mr. Theodore Kienzle, Collinsville, Ills.
Mr. Charles C. Buchanan, Mulberry Grove, Ills.
Mr. Henry S. Gillespie, St. Louis, Mo.
Mrs. Rolla Keighly, Eau Claire, Mich.
Mr. Henry W. Body, Collinsville, Ill.
Mr. Frank Holtsfoerster, E. St. Louis, Ill.
Mr. Charles A. Woodley, Benton Harbor, Mich.
Mr. David N. Brown, Benton Harbor, Mich.
Mr. Moses E. O'Brien, Dowagiac, Mich.
Mr. Bruhart F Pacholke, Dowagiac, Mich.
Mrs. Lena Snyder, Berrien Springs, Mich.
Mr. Ervin L. Cooper, Edwardsburg, Mich.
Mr. William Hanson, Vineland, Mich.
Mr. Frank N. Seger, Benton Harbor, Mich.
Mrs. Jno. B. Lybrook, Eau Claire, Mich.
Mr. Omer W. Horton, Eau Claire, Mich.
Mrs. A. M. Barnes, Bunker Hill, Ill.
Mr. William H. Woodley, Benton Harbor, Mich.
Mr. Herman R. Lull, Benton Harbor, Mich.
Mr. Clinton J. Closson, Paonia, Blackwell, Colo.
Mrs. H. F. Henrichs, Bunker Hill, Ills.
Mrs. Henry A. Minor, Mulberry Grove, Ills.
Mrs. Thomas V. Utt, 1021 Washington B'd, Chicago.
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Mr. Michael Farrel, Alhambra, Ills.
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Mr. Charles C. Herwick, Edwardsville, Ills.
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Mrs. Joseph Goldbaum, Benton Harbor, Mich.
Mrs. Percy Little, Dowagiac, Mich.
Mr. Marion E. Younger, Bunker Hill, Ills.
Mr. Harry Otis Parker, Niles, Mich.
Mr. Jno. H. Dillon, Edwardsville, Ills.
Mrs. Jno. Schmidt, Edwardsville, Ills.
Mrs. S. H. Foulkes, Terre Haute, Ind.
Mrs. Theo. Kreiger, Stevensville, Mich.
Mrs. F. M. Hoffmann, South Bend, Ind.
Mrs. Anthony Schuch, Edwardsville, Ills.
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Mrs. J. E. Green, 9136 Superior Ave., So. Chicago.
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Mrs. C. D. Woodin, Millburg, Mich.
68 Mrs. W. D. Godefroy, Cape Girardeau, Mo.
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Mrs. O. J. Smith, Benton Harbor, Mich.
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Mrs. Edward Dwan, Benton Harbor, Mich.
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Mr. K. F. Mathews, 1798 W. North Av., Chicago.
Mrs. William Hanson, Vineland, Mich.

Every member and prospective member should bear in mind that the profit or earning power of the league is always governed and controlled by the increase in the membership and that each member always realizes every dollar he or she is entitled to. It could not be purely mutual co-operation and be otherwise.

Every one of the persons named realized their endowments exactly in accordance with their certificates of membership. If the ratio rate of increase during their period of co-operation had only been two-fold, then their realization would have been only $2.00 for $1.00; if the increase had *have* been four-fold, then they would only have realized $4.00 for $1.00, but the ratio being better than the eight-fold rate, every one of them realized more than $8.00 for $1.00, and this is being done right along.

On a higher plane.

In undertaking the management of the league's affairs, the board of managers have placed themselves on a higher plane than in ordinary business methods, inasmuch as the relationship between themselves and the members is such that they cannot make a single move that would be detrimental to a member's interest without injuring themselves proportionately. They have also placed themselves in such a position that no one can justly accuse them of selfish designs, for the reason they cannot do anything that will gratify their personal interest without benefitting members 95 per cent. more than themselves.

Sometimes a person with selfish designs, and who is usually floundering in the quagmire of our present profit-taking system, will accuse the management of this, that and the other thing, but such persons are immediately informed that they must first find the incentive or motive for wrong-doing. If no incentive or motive can be found, then it is self evident that the critic is wrong himself and that his criticisms are either the result of his ignorance of the principles of true co-operation, or that he is woefully selfish and wants the management to do something for him that would not be fair and equitable to the rest of the members.

Instead of the people trusting the management, the management are trusting the people, because they do not receive pay for their services until members realize their endowments and because they are depending on people continuing to join the league and co-operate with one another, which is the only thing that makes it possible for the management to receive pay for the services they have rendered in advance.

The league's rating and reliability.

The league, not being a commercial organization, requires no commercial rating, and at the same time is safer and better than any

commercial institution Dun or Bradstreet has ever rated, for the reason that it is not a company or concern which might fail by mismanagement; but an association of people scattered all over America, who are trusting one another.

The relation is such between members and management of the league, the members do not have to trust the management, or have any anxiety or concern relative to the management of the league's affairs, because under the league's system of co-operation, all incentive or motive for wrong doing is entirely removed; inasmuch as the management cannot do anything that would be detrimental to members' interests without injuring themselves proportionately, and because every move that the managers make to benefit themselves cannot help but benefit members 95 per cent. more than themselves.

The management is controlled by relationship and bond all the way through the league's system, and is always placed in an attitude of trusting the people instead of people trusting it.

69 R. W. Powell, manager, League of Educators, 1032 Granite building, Rochester, N. Y.*

Management.

David H. Roblin, head counsel.

C. Franklin Davis, president. Martin J. Baxman, sec. and treas.

Eugene J. Davis, Jersey City, N. J.
Ira J. Ayers, Lincoln, Neb.
H. S. Osborn, Grand Rapids, Mich.
William H. Bisp, New York, N. Y.

Board of managers,

League of Educators.

Clearing house, 184 La Salle street, Chicago, Ills.
New York offices, 15 Cortlandt street, New York, N. Y.
Iowa offices, 35–37 Clapp block, Des Moines, Iowa.

* Erased by pencil.

Hutchens had just received his check for an endowment, and while he stood in the post-office admiring its appearance, his friend Johnson stepped up. "Well, what are you smiling about, Hutch?" "This," said he, showing the check. "Well, well, so you got it, did you?" "Sure thing; what do you think of the league now? Remember what you said when I joined, that it could not be done? Now you see it has been done, don't you?" "Looks like it, but I can't see yet how it was done. Where did that money come from, anyway? You only put in $12.50." "Yes, and I put in three new members, too." "Well, they only paid in $37.50 all told; where did the rest of your hundred come from? Who paid it?" "Why, that is easy to answer, Johnson, but it is rather a long story. Let us sit down." Being a fine September day, they retired to a big dry goods box, and Hutchens began:

"Here's how I figure it out. It is simply a question of what I do for the league as a whole and what the league does for me. Now this year I have got three members or a paying power of $37.50. Next year I get three more. My paying power is then six members or $75.00. The next, my power is nine payers or $112.50. The next it is twelve payers or $150.00; and my last year it is fifteen payers or $187.50. That year I get my last $100.00 and my present membership is ended, but my payers are still in the league paying for somebody else. The first year after I am out there are still 12 of them in, and they pay $150.00. The next year nine are left who pay $112.50. The next year six are still in and pay $75.00, and the fourth year after I have got my last $100.00 my last three pay in $37.50. Now after I realized, they kept paying. They did not pay for me, because I was all paid up. Their dollars went in to make up the full $100.00 realizations of those who had newly joined and had in their first or second years got in only three or six payers. Now this year is my first; my three do not put in enough to make up a full $100.00 for me, but it is made up by the payers who are still in, but were secured by earlier members who have realized in full. These ones who are in are paying every month and are getting new members. I, by joining now, get the benefit of their payments, just as later on, after I have realized my $500.00, some member will get the benefits of the payments of the members I am putting in now. You see while I am a member only five years, the people I get to join are paying in over a period of nine years. I got fifteen people to join. They all pay during the nine years, $937.50. I only got $500.00, so you see there is a big margin. After the second year my paying members put in more each year than I draw out. Of course I am ahead of the league the first and second years, but I make that all up and more later on. The amount I am ahead those two years has already been provided for by those who joined before me. That is where I get the benefit of the co-operative effort of all who were already in when I joined;

but I pay it all back in service, that is by gaining new members later on."

"Well, Hutch, that looks different to me. It is surely a fact that if you get three members a year for five years and each stays in so he can realize, your service will be putting $937.50 in good gold dollars into the league. It is dead easy for the league to pay your endowment then, and the league would be gaining at 15 to 1. Why if your influence only gained eight in five years it would still make your $500.00 good." "That's so, Johnson; but if the league grew 15 to 1 we would not have to put in $12.50 per year; $500.00 is all we need to produce. If we all made three new members each year then every call would be but 55 cents a month as you will see in our realization table. Everyone is not so sure of their growth as I am, but still if all of us, together with the clearing house and co-workers can maintain our present growth, our $500.00 in five years at a total money expense of $62.50 is the surest thing on earth." "Say, Hutch, it certainly can be done; I see it all." "Yes, of course you do, now I have got this check," laughed Hutchens. "Well, I do see it. I was a chump last year. Let me have one of those applications. Come on up to the store and I will give you the membership fee right now." That same afternoon the outgoing mail took a letter from Hutchens bearing three applications from as many of his friends like Johnson. He had lost no time making his next year's check sure. Late record, show that unbelieving Johnson has not only his three but has a second certificate and is after three for that.

Sent out by League of Educators.

(Here follows fac-simile marked p. 71.)

20673

Entered according to Act of Congress in the year 1908, by the BOARD OF MANAGERS, LEAGUE OF EDUCATORS in the office of the Librarian of Congress at Washington, D. C.

No. 6.15. Public Printing House H. B. Rogers, Contractor, etc. } 4.71.

Get on the right track, and stay on. The League of Educators and Purely Mutual Co-operation point the right road. Follow it for your own profit.

73 The Vigilant.

An exponent of purely mutual co-operation.

Vol. IV. May, 1902. No. 5.

Muse of Brotherhood.

I make an end of life's stupendous jest—
The merry waste of fortunes by the Jew,
While the thin faces of the poor are pressed
Against the panes—a hungry whirlwind crew.

I come to lift the soul-destroying weight,
To heel the hurt, to end the foolish loss,
To take the toiler from his brutal fate—
The toiler hanging on the Labor Cross.

* * * * * * *

My love is higher than heavens where Taurus wheels,
My love is deeper than the pillared skies;
High as that peak in heaven where Milton kneels,
Deep as that grave in hell where Cæsar lies.

Still hope for man; my star is on the way!
Great Hugo saw it from his prison isle;
It lit the mighty dream of Lamennais;
It led the ocean thunders of Carlyle.

Wise Greely saw the star of my desire,
Wise Lincoln knelt before my hidden flame;
It was from me they drew their sacred fire—
I am religion by her deeper name.

—*Edwin Markham.*

League Ability Precedes Liability.

The great financial point that interests those who examine closely the league's plan is that of liability. In every commercial organization ever founded, liabilities to pay are first created, then every part of the machine is set going to make dollars enough to pay those liabilities as they come due.

The league's plan exactly reverses this. It has not the shadow of a liability until every dollar of the monthly call is at the clearing-house. At that moment each certificate, in behalf of which the call was made, becomes a demand on the total amount for its *pro-rata* share—no more—no less.

In the league, the ability; in other words the aggregate will of all to pay, comes first, the liability not existing till the total of the willingness, as expressed in dollars, is ascertained. Herein lies the fact that the league can never fail, needs no reserve fallacy, has no opportunity for surplus or deficit, and is in no danger from official

misuse of members' moneys. These points are true of no other organization on earth.

A Wreck and a Rescue.

Only a few nights ago, a splended steamboat laden with people, was burned to the water's edge in the Ohio river near its mouth. A life boat full of men, women and children shoved off into the swift current, but the oars had been burned. The men began paddling with their hands in vain effort to keep the unwieldy craft in control, but work as they might they could only edge along toward the shore to be swept careening away by the next eddy.

With our present financial system we are in the identical shape those poor imperiled souls were. We are all drifting along in an unsafe, unwieldy, makeshift economic craft. Profit-taking, consuming greed has burned our oars; the workers are paddling away with tired arms to keep conditions in just sufficient control to prevent capsizing. Little or no progress to the shore of industrial freedom is being made.

We will be thus until the powerful steam tug of purely mutual co-operation comes sweeping along and casts us the strong cable of actual brotherhood. Then will we reach the welcome ground of solid economic conditions and breathe the air of real freemen in a really free land.

74 *Governing Limits.*

The will and action of the membership controls the amount of the monthly call always. These calls can never become excessive because of the limits established on the certificate and on the endowment call for each endowment.

The limit of $500.00 at one end and 25 cents at the other of the league machine is there for exactly the same purpose the governer is on a steam engine. Both automatically turn on more steam,—more power—when more is suddenly demanded, or cut down the supply if the load suddenly lightens. This tiny contrivance in both cases ensures an absolutely even speed and steady results. Without the limits, the league would be nothing but an endless chain plan that would sooner or later run away with itself on an easy grade, or stop dead still at the first up-hill climb—just exactly what the steam engine would do under similar conditions.

Every member and prospective member should bear in mind that the league's system of co-operation is thus perfectly governed, is self-adjusting and works automatically between the sums of 25 cents and $500.00. The earning power is entirely controlled by the members.

The management of the league does not determine or fix the realization. The gain, earning power, or realization comes by reason of growth in membership. This has always been the case from the league's inception.

The certificate of membership does not contract for any stipulated amount. It could not do so and be consistent with purely mutual co-operation. By reason of the way the league's system is governed and operated, it is an impossibility for any member not to receive every dollar he or she is entitled to.

It is also an impossibility for it to cost any member any more than his or her *pro-rata* share, and that *pro-rata* share to pay cannot be any more than it should be, because all are on the same equal and *pro-rata* basis.

This being true, it is an impossibility for there to be any liabilities or obligations in any commercial sense, for all are alike, all contribute alike, and all realize alike without obligation, compulsion or force. There is no amount to be realized beyond that which the will of the people expresses by co-operative service and contributed dollars, and this amount of realization being entirely distributed *pro-rata* among members each month, precludes all possibility of any obligation or liability accruing.

One Way of
Looking At It.

The Chicago American with its faults and virtues, is above all else original. Here are some remarks on Rockefeller. "The American people, before Rockefeller arrived, had very primitive ideas about handling a great industry. There were thousands of middle men making their little profits and paying their employees as little as possible. Oil was dear. Along he comes, wipes the middle men out, makes them go to work, as they ought, appropriates to himself a thousand million or so of wealth that God has given to the nation. But he makes oil cheap and teaches a lesson in industrial organization. Rockefeller wants freight carried on a railroad. He sends for the manager who arrives with *his* hat in *his* hand.

Rockefeller says "I will allow you to carry so much freight for me on such and such conditions and I will pay you so much. That's all, go away."

The people of the United States elect and they ought to control their servants and representatives in Congress and in legislatures. They don't know how to control them. Rockefeller is teaching them. The strict duty of the people and the newspapers is to watch Mr. Rockefeller and control him, so far as possible—in the only way possible, through the power of public opinion. But while he deserves watching, he also deserves gratitude in the broadest sense."

Co-operative Unity
Ends Warfare.

Some of these days the people are going to take this war business in their own hands and settle it for all time. The honest German will tell William he is dead tired fighting for a crown he can't touch, and gold buttons and feathers his sons can't wear.

The English worker will inform Edward that the money for his civil list is all needed for the suffering dependents that the once sturdy Britons, whose bones litter the African veldt, left behind. The Yankee has always regarded war as useless, inglorious and wasteful, so he is very ready for national unity and community of interest.

Instead of being owned, the people shall be the owners; instead of being lambs, they must be shown that they are masters of the fold.

Jefferson believed in the people. He referred everything back to the people. He wanted them to live, labor and thrive for themselves and for one another. His spirit is alive to-day and we call it "Americanism."

75 Competition is the raw-hide lash that drives business ahead even when its straining sinews are almost snapping with fatigue. Co-operation is the refreshing draught that banishes weariness and impels a joyful and doubly productive renewal of effort.

A Parallel.

"But the great clock in the chamber of the Omnipotent never stands still. It ticked away the years as it had once ticked away the centuries. Finally it struck the hour, and the world heard the tread of a million armed men, and slavery vanished from America for ever."—*Altgeld.*

And now a parallel. Avarice, greed and double dealing hold the people in chains. At a devil's leer and a master's nod, the worker's meat, his bread, his fuel and his raiment take on war time prices, that he may be robbed of his dollars. He is shorn of his means because he will not see his loved ones want. The slave driver's iron rod is felt in hovel, cottage, home and farm-house alike.—Again—

"But my friends that great clock is still ticking, still ticking. Soon it will again strike the hour and the world will see, not one million, but ten million free-men rise up armed, not with muskets, but with free-man's ballots, and the sway of the syndicate will vanish from America forever."—*Same.*

Same Old Thing,
Method Slightly Different.

Del Mar tells how Albuquerque, in early days, plundered Muscat, Ormuz, Goa and Malacca, that he might gain what others had labored for—"At Muscat and Ormuz he cut off the noses and ears of prisoners, and had their bowels torn out so the others would be frightened into telling of their own hidden hoards of gold and silver. After this was found, the prisoners were all destroyed, men women and children."

Upon his return to Portugal this hero exhibited to his friends 120 dozen solid silver plates, 500 large silver dishes, 500 small ditto and 40 silver ladders, with which to mount to the repositories of this blood-stained treasure.

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To us, in our boasted civilization, Albuquerque's methods seem a trifle strenuous, but they were no less effective in the end than the system the labor baron now, who fattens on the vitals of his poorly paid, worse fed, unwilling victims.

Free Rides are
Dear Ones.

Two boys were sent on two separate errands to the village store a mile away. The day was warm and the road dusty, so the good housewife prepared a cooling draught for the lad who made the trip sooner. One lad found a shady tree by the roadside and there waited for a ride, thinking that it was the easier, quicker way. The other lad kept his bare feet paddling along through the dust, for he thought only of his duty and the surest way for him to do it. Teams were scarce that day. When the ride came for one boy, the other had reached the store; made his purchase and was well on his way home, which he reached on time. When the waiting, riding lad got back, the cool draught was all used up, and he had spilled part of his purchase climbing out of the wagon.

So it is in the league. The member who wants to get a good realization and yet who sits in the shade waiting to be carried, while the good co-operator pushes right along with the one idea of growth in mind, will, when he at last reaches the realization goal, if he ever does reach it, find that half way efforts always bring half-way results.

The best way to do a thing is to do it in an independent, persistent way. Never stop and look around for a lift, or help, or aid that is undeserved. Help those who deserve it just as you may expect help by your own deserving. Do not wait long, or look for free rides in anything, save a patrol wagon or a hearse.

There is a destiny that makes us brothers:
None goes his way alone;
All that we send into the lives of others
Comes back into our own.—*Markham.*

"New occasions teach new duties; time makes ancient good uncouth; They must upward rise and onward, who would keep abreast of truth."

Lincoln, standing on the sun-kissed slopes of Gettysburg, prayed that the government of the people, for the people and by the people might not wither from the face of the earth.

76 *Percy's Hammer and*
What Came of It.

Little Percy was a very good boy in many ways. He never swore, did not like filthy tobacco, and was always on intimate terms with the domine, the school ma'am and the Sunday school teacher.

Percy's one misfortune was, that he was born, not with a silver spoon in his mouth, but with a little hammer. Possessing this, he began to use it at a very early age, and soon had acquired a reputation in his social set that cost him many black eyes, scratches and torn clothes. According to the "kids" Percy was set down as a "darn knocker."

When the circus bills went up, Percy allowed that the other boys were very foolish to get excited. He said that the animals were fakes and told them that elephants were only as big as his dog and proved it too, by measuring the picture on the boards with his little foot rule.

When the show really came to town Percy locked up his dog and threw his little foot rule into the stove. He did not believe that the balloon would go up at all. When it did go, he got caught in a tangle of rope and was yanked over a fence and spilled into a puddle back of Smith's cow barn. This put his little hammer out of business for a brief time.

Somebody told Percy that the black powdery stuff his father sold to the quarry-men was bad business if it got mixed up with fire. Percy did not believe it at all. Next day his papa bought up all the court plaster in town to replace lost skin. An eyebrow, entire, and two teeth were also lost by Percy at the time the powder went off.

Thus it continued with him. Every new thing he heard of he would knock away at with his little hammer and would utterly disbelieve without a dose of good strong personal experience. He found that bees used their business ends when he fooled with their business; that fly paper was sticky when he got it on his hair; and that Brown's colt could kick when he tickled its heels.

It would have been al- right with Percy had he not carried his hammer too far. One day he heard Jinks, the grocer telling his clerk to be very careful about a barrel of gasoline that stood in front of the store. Percy remembered his powder, but this gasoline looked like water, so he tried it with a match. They never did find all there was of Percy, but they scraped up enough to have a funeral over.

Moral: If you have a hammer, lose it. If you can't boost, don't knock.

Growth vs. Graft.

Some of these days, the noble army of grafters will become fully convinced that the League of Educators is internally, externally and eternally just exactly what it claims to be and they will give up their spasmodic attempts to extort tribute from it. There is just one way that they can get money out of the league, and that one way is to study, learn, join and put co-operative service into the movement. Then their dollars will come freely, fairly and easily; they will have escaped from the camp of "Graft" to the colony of "Growth" and will have become useful, reliable citizens.

Profit-taking grafters cannot conceive of a system wherein the people's dollars are exploited without loss, speculation or confiscation. The grafters know that banks take the people's money and lend it back (when the officials don't get away with it entirely) at so much "per." Insurance concerns swallow sixty cents out of every dollar the people trust them with, and commercial enterprises always take out "All the traffic will bear." Thus, when the grafter hears of 95 cents out of every dollar going right straight back to the people, he is aghast. He regards the public just as the proverbial darkey looks upon the hen roost. If he does not get the fat pullet some one else will.

The grafter cannot learn that never has an unearned dollar blessed man, woman or child since time was. A Gould or a Rockefeller with his millions and his dyspepsia reaps a reward of pain that is spared the honest mountain shepherd. Carnegie was a happier better man when earning his weekly wage than in his later conscience stricken days.

All this the grafter cannot understand. Speculation, investment and other systems, all synonymous with thievery, alone does he know. Liberty, equality, fraternity and all the nomenclature of purely mutual co-operation are to him just so much meaningless gibberish. He takes them to be words cloaking projects even more shady than those that interest him.

When the grafter gets into public office he regards it as a private snap. Shaking various plum trees brings him fruit, but when he gets his hands on a piece of nature's own product like the league, his itching palms get full of thorns, his pate is pelted with showers of a kind of plum worse than green persimmons, or stale hen fruit, and his ideas on things co-operative are even more chaotic than before.

77 *Mr. Deb's Idea of The Situation.*

"Bear in mind that here "we" are the people; "we" live in the land of the free and the home of the brave." "We" are all sovereigns; "we" have no classes; "we" scorn royal snobs; "we" love liberty and despise display; "we" hold "the divine right to rule" in contempt; "we"—Rats!

The simple truth is, we are all like the rest—we have prince and pauper; power and poverty, money and misery in our capitalistic republic, just as they have in their capitalistic monarchy across the water.

Chauncy M. Depew has 150 pairs of neatly creased trousers; many of his sovereign constituents have patches on their only pair of pants.

In our great eastern cities more than half the people live in tenements unfit for habitation, and thousands of babies, denied fresh air, die every year."

Mr. Debs was evidently feeling slightly acrimonious when he

wrote the above, but what made him feel so was the dining and wining of Prince Henry by the millionaires and their official protégées, while the people were studiously kept out, back and away from the spectacle, like a lot of serfs held in a master's leash.

Co-operation Laden with Results.

Ten years ago the wealth of New Zealand per family, was $5,700. To-day it is $7,500. Population has increased 19 per cent., exports 40 per cent. and bank deposits 60 per cent. In this happy land beyond the western seas, there exists no millionaire to menace industrial freedom. A special privilege is put down as a special crime.

Extremes of poverty have long since vanished. The idea "from each man according to his ability, to each according to his need" has come to stay. Public officials are in fact as well as in name, public servants; not public bosses. Public utilities are owned and run by and for the people. Railroad fares were reduced the past year 6 % and at the same time, service bettered materially. Privileged private ownership of water, air, ground or sunshine is considered as theft from the Almighty.

Nature is yielding grandly in that far away progressive land. Its people labor well but toil not long. All they need, physically, mentally and morally is theirs. On the other side of the world from Wall street, from the bourse and the wheat pit, the demon clutch of avarice's hand cannot reach. Co-operation for them means happiness, home and Heaven and that too on earth—at hand—not on the other side of death's forest gloom.

The Old Man on Probabilities.

Well my son, it is possible that you may some day get where Teddy now is, but it is not exactly probable. If you go in for finance you possibly may be a J. Pierepont. There are several thousand young men like you, hoping to be President, all but about a dozen will get left. It will be the same among the financiers.

Remember, that for every term in the White House, there are ten-thousand terms in the black house with iron barred windows. For every millionaire, there are ten-thousand unmarked pauper graves. Now all this is no fault of yours or mine. Don't get blue thinking about the probabilities of your eventually landing in some lofty place. This economic pudding is very shortly going to be so thoroughly overhauled that the raisins will be scattered all through it instead of in certain favored spots. Then every one that has a spoonful will find a few for themselves.

This possibility—prob-ility business has already made too many gamblers, also paupers. You, my son, peg right along doing thoroughly each day each thing that comes to hand. In the meanwhile keep your eyes open, your ears alert and your mind clear. Don't

hope to climb, to power or glory using fellow-men's necks for step. ladders. Look well out for yourself and help your brother man. Don't soak up a lot of economic nonsense that will soon be out of date; put your mind on purely mutual co-operation and the brotherhood of man, and there let it stick. You may never then get a soft chair in the executive office of a bank, but you can rest assured that you will never have to lie on a hard plank in a police station.

If no one were in debt bankers, note shavers and money lenders would be out of business. Having thrived so long, on means furnished by other people's labors, their natural tendency would be to get into burglary or highway robbery; their new condition, even then, would not be so different.

Over and over again has the standard of truth and justice been raised in this world. Over and over again has it been trampled down, only to be raised again by willing thousands full of new strength for the conflict against wrong.

78 *Marching On.*

Sweep away the fallacies of ancient craft and lore,
All the time-long prejudices that manacles the poor;
To the new and beautiful now open wide your door—
For the League comes marching on.

Many "revelations to the people" will be borne,
Much that's old and "fogy" of its lustre will be shorn;
Let's be up and doing for now breaks the gladsome morn,
For Truth comes marching on.

Co-operation all along our line from east to west,
Is the watchword of our soldiers—for the cause we have the best;
Then do not fail to honor and obey its kind behest—
As we go marching on.

The Vigilant is our light house, and from its tower high,
Our Chieftain guards his soldiers with the searchlight of his eye,
For "eternal vigilance" ever is the price of liberty—
As Truth goes marching on.

No matter where you're standing in the conflict when 'tis waged;
No matter what the outcome, which by some has been presaged,
Be loyal to the principles for which you are engaged—
And thus march bravely on.

Whet your blade with common sense and strive to always feel,
That the cause you champion is worthy of your steel,
Then in each encounter try some action to reveal—
As you go marching on.

Friends be true and loyal to the banner in your hand,
Be the "further lights" to illuminate this darkened land;
Maintain the rights of free men in your every conquest grand—
As you go marching on.

While it's a mooted question over which our statesmen brag,
Whether or not our Constitution always follows our flag;
Let no "sound uncertain" cause our busy feet to lag—
As we go marching on.

For in pursuit of happiness and life, and liberty,
Under our Constitution still protected we will be;
That we're not defrauded of our rights let each one see—
As we go marching on.

Where is the arrant coward that dares say we shall not go,
Forward in our enterprise from Maine to Mexico;
We'll defend our own free land from each usurping foe—
As we go marching on.

E. SCRANTON.

FENTON, MICH.

How Business Men
Find Time to Co-operate.

The following are extracts from a letter from Mr. O. M. Stewart, a prominent dealer in meats, provisions, etc., of Muncie, Ind. It shows how the league is growing and what a man's influence can do.

"I enclose you a letter from T. C. Campbell of Knoxville, Pa., as a sample of the many letters I have received since securing my endowment; to let you know of my loyalty to the L. of E. and the effects of my letters, which will interest every member and the managers as well. Since receiving my endowment the 19th of February, there has scarcely been a day but what I have received from one to three letters from members and prospective members asking for a few lines direct from me, having seen my letter and picture in the "Vigilant," offering my obligations to one and all for their help in making it possible to realize so much for so little paid out, and that I had joined again. In all I have received about 50 letters from almost every State asking about the L. of E. and I have answered every letter, giving my enthusiastic and encouraging opinion, telling all, that it is a real fact, as some would say "Was it really so that you got your endowment?"

In this one letter alone you can see where one member, Mr. Campbell, has secured six new members by the influence of my letter to him, regarding my endowment. Now if every member would work a little along co-operative lines, we would all be benefitted and our monthly calls would be less. Some say they have no time to get members, but that is only an excuse for want of energy. There is no one has less time than I have, having a daily meat market to operate and *and* oversee five men, and keep them at work, apparently takes every minute of my time, but I take the time to answer all communications, collect the money for all the members in Muncie, and can secure new members.

Enclosed find draft for $3.00 for one new member, J. D. Cavanaugh of this city.

Very respectfully, O. M. STEWART.

Mr. T. C. Campbell, referred to by Mr. Stewart, is also a very busy man. He is agent for the New York Central and Hudson River R'y at Knoxville, Pa. He wrote to Mr. Stewart as a younger co-operator to an older one, asking for more light, as to the league and its system. He is a most loyal co-worker and though a member of the league but a few months, he has alone and unaided gained half a dozen or more genuine co-operators.

The Stewarts and Campbells never have belonged to the "can't" tribe. Since ancient times they have always worn the plaid of the "will" clan. That's why they get there.

To reject an idea because it is new, is not a proof of shrewd sense, it is a proof of bigoted ignorance. Remember, that once upon a time, a keystone was rejected by the builders on account of its odd shape, yet that same stone, of and by itself, made the finished arch possible.

79 As no part or member of your body can sustain injury without harming the whole, so is any injustice done to any person an injury to all. Those who try to reap wha- others have sown, are ignoring justice and are violating a basic principle of brotherhood.

Silas Finally Arrived.

Next to believing nothing that you read or hear, the worst habit to get into is that of believing everything you read or hear.

Silas Upjohn was a sad sufferer from this habit; though in other ways he was a hard working prosperous truck farmer. No one could fool him on potatoes, beets or turnips, for he knew all about them; but on religion, politics or finance, he was usually at sea.

Silas was raised a Baptist A Methodist preacher with a fog-horn voice came along, and made him forget all about immersion. Next he had a severe fit of High Church feeling; then Christian Science got him; next, owing to the persuasive ways of a young theologue he got back into the Baptist camp.

Politically his course was quite as varied. Of course he was first an Abolitionist. Horace Greely made a Democrat of him; next he took stock in Greenbackism, had his fling as a Farmer's Alliance man, went off on the Bryan boom, and then got back again to his original party, as a McKinley man. All these changes took place during succeeding years. It was on his financial ideas that Silas turned his swiftest somersaults, and where he got his quickest experience.

Silas had saved quite a little wealth out of his onions and carrots; some of this, on advice, he put in a bank. The cashier was a plunger "on change." His final plunge took Silas' deposit with it, for the cashier never came back.

Some one told him that western farm mortgages were fine. He bought one and in less than six months he found that a prettily engraved and elaborately signed piece of parchment was all he would ever get out of that investment.

He next saw a picture of an oil well spouting a column of "dollar a barrel" oil nearly a mile high. Two-hundred dollars of good honest cabbage money bought him twenty-thousand shares that soon became a one-thousandth interest in a dry hole eight inches broad with a bottom one thousand feet nearer China than the derrick.

Still his gardens kept growing and Silas still had money. A smooth insurance man came along and sold him a fine looking policy that protected him against accidents (of all kinds, he thought). When his horse ran away at sight of an "auto" and landed him on a stump with a broken arm, he found that in the fine print on the back, near the southwest corner of his policy, runaway accidents were especially excluded, as was about everything else excepting falling up a hill, or being kicked by a cat, or bitten by a canary bird, or some such probable catastrophe. The kitchen fire got that policy.

Silas had at last, really begun to get doubtful of all things. True, by this time he had fully decided that Baptists were the people for him, with no prejudice against the rest, and that Lincoln's party was good enough though Jefferson's was good too. But on the question of prudently managing his saved dollars he was becoming very skittish. When he received a league "revelation" he said "Oh fudge, they don't get me again," and he would not read it.

Mrs. Silas put on her "specs" however read it, and kept still. Being in the city, she paid the clearing-house a call, heard the plan carefully explained, and went home loaded for Silas. He read a little, then some more, then wanted to join. When his wife told him he would not be acceptable till he knew more about it, he had a new sensation. He sat up all one night and half of the next, before the light broke in on him and he saw that a man who could produce a dollar could be taught how to exploit it himself by purely mutual co-operation. He joined, also his wife.

The other day on receipt of their endowments, Silas wrote in "Drafts on hand O. K. Have found that to 'trust' others to exploit my dollars means 'bust' me. Have been there. Now I am co-operating in a purely mutual way with all the rest of you L. of E. folks. I'll treat you right and make my share of growth as I have done, for I know you'll treat me al- right just as you have done; so here's good health, good crops, good luck and good growth to the only one: The League of Educators."

Many men are like goats; they have great heads for business.

80 *Change Unceasing is Real Vitality.*

Modification, change, improvement, all must be regarded in the league's workings. As the league is founded upon, and extended by natural laws, so must its working system possess elasticity enough to fit ever changing human conditions. A real principle is as fixed and sure as a heart of oak or a rock of Niagara. Changing seasons put new verdure and branches on one; they add new beauties and new grandeur to the other.

The League of Educators is founded on broad and far reaching principles. The wisdom evinced in its management is entirely drawn from the condensed, composite result of thought on the part of its living thousands. No single man can see all, know all or direct all that enters into such an organization. As well could one eye, in a casual glance, take *take* in all that composes a nature's Yosemite picture.

The saying "*Vox populi, vox dei est*" can be truthfully paraphrased to "The will of the people is the will of God." What ten-thousand determine, let no puny human atom deny. The league is not a Juggernaut, crushing all who oppose, for its watch word is "Harm no one by our process." It seeks not to crush a detractor, but to teach, lead and make a real man of him.

Time was, happily long ago, when self-inflated demagogues said "Trust not the people, they lack understanding." Europe smiled in derision while Washington, Hamilton, Adams and Jefferson set up a system by, of and for the people. Continental sneers have changed to hungry longing glances across the sea, when at last it became very evident that the people's system had drawn to itself the virile red blood of all the nations; when they saw their derided people's plan rise, and tower into a Colossus with a stride of three times three thousand miles.

In the people's system, founded by the spirit of '76, administrations, and decades, have, each in turn, brought changes. Who shall gainsay not for the best? The men of Jackson's time builded well for their time and for us. Lincoln's policy, so different from theirs, was fitted to the conditions of '61, and was well for us. Our nation's ideal to-day is far, far away from the plans of the Continental Congress, but it is suited; is well for us, and for generations, as yet unborn. Yet, in all these changing aspects, not a principle has been touched or vitiated.

It is just as necessary that the league shall keep changing for the better, without alteration of underlying principle, as it was for our nation to advance. Ever-changing conditions demand changed ways of meeting them. Any human institution which has not sufficient elasticity to meet all such, insure conformity, has not in it the real germs of vital real existence.

Study, thought and education must always precede action. Changes must come in steady processes, not in convulsive throes. The league, each year, is just 365 days better off; not only in time,

but in usefulness, harmonious action, and ability to help the idea of "Each for all and all for each." "Excelsior" is the word all along the line. Guard the real underlying principle, just as the old Roman watched his household "lares and penates." All alterations, thoughtfully, intelligently made will then be of equal value to us, to each other, and to future co-operators.

Work, that Halcyon Days
May Hasten.

Self sacrifice for the sake of a great cause is the surest way to your own happiness, and the struggle of the working class for freedom, which is now coming to a triumphant end, is the greatest of all causes, for it will put an end to nearly all the misery in the world. But self-sacrifice for the sake of self-sacrifice or for the comfort of some person who is too stupid to be thankful for it—this injures the one who makes it, and really helps no one.—*C. H. Kerr.*

The Bankers Hold the Bag.

At first sight, the fact that there are 600,000,000 more dollars standing on deposit in the banks of our land, than have been minted, stamped and put out by the Government, seems puzzling. That a bank owes its depositors $1,000,000.00 with only a tenth of that sum in its vaults, the rest being in paper securities of all sorts, seems also odd.

It is all a part and parcel of our cumbersome, tangled, intricate system of dollar exploiting, with the financier holding the bag and nothing save his word, that what goes in will ever come out, except through the leaks which the people can't see, but which the financiers know are there, and which they are always trying to stop by pouring more of the people's dollars into a wide open mouth.

A Chicago clergyman asks business men to quit their profit-taking now and then, and fix their thoughts upon heaven. He never stopped to think that, in this crowd, the stock exchange, the grain pit or the stock-yards, each or all come very near its collective conception of heaven.

81 *How Long Will the*
League of Educators Live?

This was the question under discussion by two members of the M. W. A. who had nothing but praise and eulogy for our society; but thought the increase required in the league was too great to continue any length of time. They finally decided to give the league ten years (at the outside) to use up all the people in the United States; and the last ones who had joined would lose all the money they had put into it. They then congratulated themselves that the M. W. A. was eighteen years old already, and was growing faster as it grew older.

Presently the third Woodman, who had listened to the conversation, joined in the discussion. Said he: Tell me how long the M. W. A. will continue to increase as it has in the past?" Right along sir," was the prompt reply. "Well how long? What do you mean by right along? Do you think it will continue for two more years?" "Yes for twenty of them" came the answer, "and it will be as good in twenty years as it is to-day." "Then" continued the Woodman No. 3, "let us admit that it will continue so for just two more years, and be compelled to cease doing business, or die; it would then be twenty years old, and its average increase of membership has been 255 to 1, each five years. That is over thirty-one times as fast as 8 to 1, which the league must increase to make us a ratio of $8.00 for $1.00. Now multiply the 31 by 20, the number of years we have allow- the M. W. A. to live and it will show the league could live 620 years on the number of members the M. W. A. would use up in the 20 years. Now the average life is forty years. The league's term is five years you see 5 into 40 goes 8 times, making it possible for a member to join 8 times on the average. Now multiply the 620 by 8 and it will show 4960 years for the league to live on the same number of members the M. W. A. would use up in 20 years."

"So far we have not considered the territory they draw from. Let us take for instance the United States (States and Territories) of which there are 49 in all. The M. W. A. operates only in 32 of them, thus cutting off over $\frac{1}{3}$, and they do not insure women barring $\frac{1}{2}$ of what remains; they reject all under 18 years, leaving only 2-9; they bar all over 45, thus leaving 1-9; $\frac{2}{3}$ of the last 1-9 are ineligible for various re-sons, so it leaves but 1-27 of the people of the United States to draw from. Now multiply 4960 by 27 and see what the territory will figure for the league, which will be 133,920 years that the League of Educators would live in the United States alone, according to your way of figuring.

Now if you think figures will help you, just take that into your mathematical calculations and it will show you there are over 22 times as many years for the league to live as the old world has stood.

If this is not an absolutely exact estimate of what the League of Educators will do, it will at least show the ridiculousness of looking for the last man, or the fallacy of talking about the league's lack of material. It would be much easier to find the first man than the last one;—so let's drop all foolishness now and study the plan of the league, which when thoroughly understood we will all discover to be the greatest co-operative plan ever offered to the American people.

THEO. F. CLARK,
Creston, Iowa.

Seek Good in All Things.

Edwin Markham says, "The trust brings us more good than evil; for the trust is serving as a schoolmaster to destroy the outworn and fast crumbling ideal of competition. The old saw "Competition is the life of trade" is an epigram that hereafter ought to be found nowhere, save only on the tombstones of extinct economic philosophies. The trust is teaching us that co-operation is the life of trade."

The great question in America to-day is how to restore republican government, which has been destroyed by the corporations. They control not only the local city governments but they control the State governments and the National Government. They decide what the legislature may and may not do, what Congress may and may not do; they determine the policies of political parties, and they have destroyed the vitality of both political parties—*Altgeld.*

The millionaire maintains a palace, and finds his comfort in one room; keeps many servants to wait on each other; keeps a carriage, and walks for exercise; has plenty to eat, and diets for his health; has unlimited means for diversions, and seldom has time for diversion; gets tired of watching the boundaries of his own possessions, but has to remain on guard. Every once in a while, after he has drained all there is in it, he turns State's evidence against the world, the flesh and the devil, good form, charitable brokerage, and the well-dressed treadmill generally, and tells us there is nothing in it; but we keep right on after it.

82 The Vigilant.

Published the first of each month by

The board of managers,

League of Educators,

The Temple, Chicago, Ill.

Terms:

Fifty cts. per annum; single copies, five cts.

Special Notices.

Communications: Articles intended for publication must be received at the league's office not later than the 20th of the month preceding date of issue.

Remittances: All remittances should be made payable to M. J. Baxman, treasurer.

Change of address: In order to change the address of a subscriber, the former as well as present address must be given.

Contributions: Members are invited to contribute articles of interest for publication, and same will be published when available.

May 1st, 1902.

A Platform.

Sieze upon truth, wherever found,
On Christian or on heathen ground;
Among your friends, among your foes,
The plant's divine, where'er it grows.

* * *

"We will speak out, we will be heard,
Though all earth's systems crack;
We will not bate a single word,
Nor take a letter back."

"We speak the truth and what care we,
For hissing and for scorn,
While some faint gleamings we can see
Of freedom's coming morn."

"Let liars fear, let cowards shrink,
Let traitors turn away,
Whatever we have dared to think,
That dare we also say."

—*From the Whidby Islander.*

Another month has slipped into the past, during which the league has shown its usual symmetrical growth. New members from every section of the land have been added to the roll, and a goodly body of realizers have been the recipients of most satisfactory endowments.

The VIGILANT, ever watchful, has seen little to complain of and has observed very much of a gratifying nature. Members are evidently studying purely mutual co-operation to some purpose. While some find it very difficult to get new growth, nevertheless they get it and the more new members that each one is able to enlist, the easier does it seem for him to gain more.

The educational or school feature announced on the opposite page is a movement that will sooner or later prove of incalculable benefit to every league member. There are, at the present time, some tremendous and potent forces at work in the world. Very rapid changes in the money world are being made, when, as readers will see in the papers, one New York financier, in a day almost, buys up for America nearly all the ocean steamships on the Atlantic. Another American unites all the railroads, another all the steel mills; another all the flour mills, and so on.

These things mean something of vast importance; something that will directly affect for good or bad, the bread and butter of every soul that reads these lines.

The League of Educators, individually and as a whole, must study these questions; must find out what they mean; discover where we stand; and learn to shape our courses in ways that are best. If we study them now, we will understand the meaning of altered social, political and financial conditions that are ahead *of* just as surely as are our next winter's snows.

In any land, under any condition and at any time, the man or woman "who knows" is bound to be sought for a leader. The league wants every member to be "one who knows" on questions economic, "one who thinks" on things idealistic, "one who feels" on things sentimental, and "one who reverences" on things religious.

A certain set of lucre longing State officials, soon to pass into innocuous desuetude, must feel like the man who had been chased by a bull and had to climb into a tree. He was open to congratulations because he had reached the tree before the bull got him, and to condolence because a fellow up in a tree in the midst of a 40 acre lot, with only the sympathetic company of a disappointed bull is in a mighty bad fix.

The next time they tackle a society like the league, they will do it in such a way that neither the society nor anybody else will be aware of it. As Pat told the doctor, after he had been fussing with a dynamite cartridge held too close to his pipe, they will say with unction "The nixt toime oi monkey wid dinnymite begorra, oi'll lit it alone intoirely.

Commercial waste is an appalling thing, and competition causes it all. Account-keeping, advertising and roundabout trading are the main items of loss. If we produced goods to use, or to get *to* others use, by the most direct ways, we would save all this waste.

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League of Applied Educators Economic School of Science.

Co-ordinate with its regular application of purely mutual co-operation to the gathering and spreading of endowments among its thousands of members.

A plan of reading, research and investigation has been established, that will lend additional impetus to what has already become a powerful factor in our land,

The League of Educators.

This course is open, free, and welcome to all true co-operators.

Any human thing, be it mechanical, educational, social, or ethical, must be judged according to its available utility. Available utility depends materially on the ability and knowledge of the user to make the thing used perform its best duty. It is a far cry from the bronze sickle of prehistoric times to the steel reaper and binder of to-day; but the latter is useful only because people have learned how to use it. A monotype machine would have benefitted Franklin little, until he had been thoroughly trained in its use. Thus in all things, we can truthfully state, without controversy that "education must precede perfect utilization."

The League of Educators is in existence for a definite reason. It is, and must ever be, an instrument for the people as a whole to use for their mutual benefit and good. To use it best and thus get the most out of it, the people must know all about it—about its aims, its workings, its weak points and its strong. To know, the people must read, think, reflect and reason.

With this in mind, there has been established, as a part of the league's system, a broad and far reaching school of purely mutual co-working students of things economic. Lines for research have been laid out and books, writings, and ideas on the most interesting question; that of how best to live, work, produce good results and enjoy the full results of same, have been gathered.

These courses will not be made up of a lot of dry musty notions of ages long dead, but will be in line with what people are thinking, saying and doing to-day. There is no need for us to dig too much in ancient gold mines, when we have veritable Klondikes of wisdom and knowledge right at our door steps, existant in the living men of to-day, who are toiling, living, and doing in the same air and under the same sun that we are.

The league school will study men and things. It will try to find how and why two men of equal birth, but with sixty years of living added unto them, become, one a Carnegie and the other a tramp. It

will study to find where our worst, unconscious, economic mistakes are, and will find out how to correct them. It will take up ideals that are possible of speedy realization and throw into the ring, in their behalf, tens of thousands of intelligent co-operative mental fighters.

Such will be some of the points in our league school. Being co-operative and each for all and all for each, we will have no tuition to pay for in money. In co-operative education, each one who receives, will perforce be giving out mental good. The astronomer will tell the botanist about the starry heavens; the plant gatherer will tell the star gazer about the meadows dotted with daisies and the forest glade fragrant with arbutus. Both will be gainers, neither losers.

A booklet is under preparation which will describe in detail the work of our league school. When ready, this will be mailed to all interested members. A special edition of Bellamy's "Looking Backward" is also being prepared, so members will have a mental feast in the first of the line of league text books to be placed in their hand.

84 The exploitation of dollars is, in many ways, akin to the circulation of the blood filled with its tiny circular dics or corpuscles. Hoarding and concentrating dollars in useless heaps is like a congestion of the blood in the human body. Pain and illness must result. It is all out of harmony with nature's laws. An ulcer is but good blood gone astray. Its cure hurts. A millionaire's "pile" is a public ulcer and its cure hurts likewise.

From the
Hawkeye State.

A capital wedding. Two members of the league, in the State capital, Des Moines, have decided to co-operate through life together, in the persons of Miss Charlotte M. Frye, and Dr. Charles Clark Fowler, both well known in society circles. On Wednesday evening, the 9th inst., at the home of the bride's parents, on 16th street, they were united in marriage by Rector J. Everist. The bride was attired in a *a* modish gown of white crepe, covering a dainty corded silk, and carried a beautiful shower bo-quet of bridal roses. Mrs. Fowler is widely known as an accomplished instrumental musician, while the doctor has been a successful practitioner of this city for a number of years. The best wishes of The VIGILANT go with them through life which include an earnest desire that an eight-fold ratio be given the league to bless this happy union.

Woodbine.—In this little village of the poetic name, the league has placed an entering wedge, and Brother John Bauerle is local agent for the town and township.

New points.—Co-operative seed has brought forth good fruit this month in Olmsitz, Carl and Dunlap, while Independence and Brooks have made big jumps to the front. The older towns have kept level and the State as a whole came within a few points of doubling its record for any previous month.

Been a visitin'.—During the past month the Iowa State manager has been visiting among the Wolverines, and he would simply say that if any of the Hawkeyes desire to be cordially greeted and feel the clasp of a fraternal hand they can receive such a welcome in Michigan. That s the banner State for membership and its growth is on the increase ratio each month. If the Hawkeye manager could only be turned loose there in fruit time he would challenge the colic, but the result to the crop would be worse than the annual frost scare.

MENDOTA, ILL., *April 20th*, 1902.

Editor of Vigilant.

DEAR SIR: There is one thing that surprises me and that is, so many members, in explaining the league's system speak of the $500.00 endowment in 5 years and 1 fifth or $100.00 in one year, as if it was an assurel fact, without mentioning the proviso if the ratio is eight to one, nov this is wrong for we members who thoroughly understand the league's system know that we only receive the endowment at whatever the ratio is, but parties not understanding the league are so liatle to get a wrong idea of the league's system of paying the endowment, and as a consequence become "knockers" as the term applies, and it is better, not to say anything at all than to explain something which we know nothing about, Co-operation is the only thing and is very easily understood by any one when it is properly explained, at least I have more trouble in talking co-operation with a person after one of these people have had it half way explained to them than I do with a person who never heard of the league before, to correct this bad habit "every member should get thoroughly posted on the league's system before they try to get any new members at al."

As a member of the Modern Woodman of America, I think the league has a very strong argument for the perpetuity of the league. The M. W. A. las year wrote 140,217 certificates while the league has to write only 40,000 certificates in the next 5 years in order to mature my certificate and pay me at the ratio of 8 to 1 on the investment, which is perfectly clear to me, and I expect to write more Woodmen certificates this year than any class of people.

Co-operation is all right and will succeed on its merits because it is right.

Fraternally yours, A. HUMMER.

Here is an exanple of a certain kind of co-operator that the board of managers of the league occasion-ly hears from. His merit, if he has any, is that he makes a monkey of himself, and thus amuses the rest of us. He wrtes "You say that I don't know what I belong to, and that I had better read up I will say that I know about as well as the officers of the L. of E. what kind of a "game" I am up against. I expect my call o be made this month if you act honest in the matter."

It is rather hard on league members to be called on to contribute for the benefit of such a thankless specimen. If he thinks he is in a "game," it shows how much he knows of purely mutual co-operation, and in fact, he proves by his own utterance how much he really knows. Of course, he, thinking he was not being looked out for as he imagines he should be, wrote such things against the league as he did not mean. Often the dog, in his hunger, bites the hand that feeds him, but then he does not mean to, you know.

Calls are made, always, in a member's behalf, when he has complied with his part of his agreement. When this party has fully complied, his name goes on the list. Saucy remarks on his part do not harmonize with co-operation, but then, he will know more when he learns to read, study and reflect.

Surroundings make quite a difference. Flour and water, in a china dish, on a richly set dining table, is called "sauce hollandaise." In a bucket on the sidewalk, the same ingredients are simply "bill-stickers' paste." There's your difference between a pauper and a millionaire.

The Twentieth Century Club
L. of E. of Chicago

Will give an entertainment and card party in Hall B. America hall No. 77, 31st street near Cottage Grove avenue, Monday evening May 12th.

Some handsome prizes have been donated for the benefit of skillful players, and a fine program, consisting of music, recitations, and short speeches by club members is being prepared. L. of E. members residing or sojourning in the city are most cordially asked to attend, whether they are club members or not, for a pleasant and profitable evening is sure to be enjoyed.

One word of kindness, of appreciation, or of encouragement is worth more to one while alive, than a ten dollar pillow of roses and and a five dollar floral motto when one is dead.

Prices may be high, but they would be higher if we could call half a dollar a dollar, and they would be lower if they were not so high. Crops may be large, but they would be larger if we could call a half-bushel a bushel.

Here, between the Atlantic and Pacific, we have a population of about 76,000,000. Every man woman and child of whom is a storage battery of condensed energy, with the exception of a certain inevitable percentage of loafers, paupers, criminals and others who get rotten before they get ripe.

Under a profit taking commercial system the rule is absolutely that those who work hardest and longest, and perform the most necessary, and often most disagreeable tasks are the worst paid and the least respected. A sewer cleaner would not grace a pink tea-party, but he is worth more to humanity than a score of "soirees."

The most egotistical of the United States, "Me.;" most religious, "Mass.;" most Asiatic, "Ind.;" father of States, "Pa.;" most

maidenly, "Miss.;" best in time of flood, "Ark.;" most useful in haying time, "Mo.;" decimal State, "Tenn.;" State of exclamation, "La.;" most astonishing State, "O.;" most unhealthy State, "Ill.;" State to cure the sick, "Md.;" State for students, "Conn.;" State where there is no such word as fail, "Kan.;" not a State for the untidy, "Wash."

Purely mutual co-operation, by organizing the world on a just and equitable basis, will bring education, leisure and hope to all men. Material wants will require but a few hours of pleasant daily labor. When men's souls are freed from the bondage of commercialism, the energies of the race will find higher and nobler channels. Things sordid, criminal and unnatural will go the way of all abnormal excres-ences, leaving not a trace behind for a remainder of their once palpable existence.

86 The problems of life have become so complex, and the adjustment of economics so difficult under modern conditions, that there is but one hope for a favorable solution, namely, through a combination of the best men and women, of all creeds and races, working in sympathy and harmony for the uplifting of mankind. Even now such a combination is forming; though the powers be slow, its outcome will be sure.

BROTHERHOOD OF RAILROAD TRAINMEN,
DENVER, COLO., *Mar.* 21, '02.

Board of managers, L. of E., Chicago, Ill.

GENTLEMEN: Replying to your favor of the 18th inst., which I have very carefully noted, permit me to say, the League of Educators is indeed a revelation to me and it was with great interest I perused the pages of the journal received.

You request my ideas on the L. of E. and will attempt to convey to you my thoughts on same. You have presented your case in a clear and concise manner, you have shown wherein a man can carry out the adage "God helps him who helps himself," also how it is placed within the reach and power of all to make some use of that golden stream of products and divert them to their own uses, but conservatism is and always has been the foe to human progress, and radical measures must be taken to convince: If it had not been for the radical men who were the builders of civilization and without whose vicarious sacrifices the history of the world would be a story of poverty, again, at the beginning of our era when the Son of Man walked along the side of the slope at the sea of Galilee, preaching the brotherhood of men and practicing the law of service and the religion of human kindness, that was radicalism then the same as now and conservatism took his life on the rugged brow of Calvary.

With your mutual co-operation, you are putting into practice the brotherhood of man, and it is in the service of men that one finds the greatest happiness. By the policy of the league you bring all classes in closer contact with each other, for their mutual benefit and improvement, binding all together for purposes of friendship,

fraternity and mutual advancement, the league places a citizen in a position where he can at least feel that he is enjoying a portion of what rightfully belongs to him and he could not in any other way enjoy this condition if it were not for the mutual co-operation.

The last report from the Inter State Labor Commission gives the average wage paid the laboring man, which is $347.00 per year while he creates $1888.00 per year, what is the solution. Mutual co-operation.

I hope that I may hear from you in the near future and that we may be able to come to some agreement, as I am positive that a good field is open here. I would like to arrange if possible to become a co-worker in the mountain States as I have covered them to a great extent. I am,

Very respectfully,

ROSS E. MILLER,
245 *Coronado Bldg.*

Profit-taking means to take from all for the benefit of the few.

Profit making means to create, or add to the whole, for the benefit of —

The meek do not seem to be inheriting the earth to any considerable extent nowadays.

Above a certain moderate sum wealth becomes a financial expression, a column of figures.

No man who never made a mistake, ever made a success, but the man who succeeds, rarely makes the same mistake twice.

The darkest day in a man's earthly career is that wherein he first fancies that there is some easier way of gaining a dollar than by squarely earning it.

Every dollar a league member draws out he, or some one, must have put in the league. Everything you find in the pie the baker put there—except flies.

An Indiana man bet 10 dollars that he could ride the fly-wheel in a saw-mill, and as his widow paid the bet she remarked: "William was a kind husband, but he didn't know much about fly-wheels.

87–90 *Ignorance and Cowardice*
The Barriers.

Cowardice and ignorance are the barriers that will shut us out so long as we will permit them; and ignorance is the mother of cowardice. "Against stupidity the gods themselves fight in vain." But this is the bulwark against which we must rear our enginery of war. We must educate or we must perish.

But there is education and education. A knowledge of dead languages and other antiquarian lore, of atoms and molecules and affinities, of gravitation and Kepler's laws, of arcs and angles, of prisms and parallelopipeds, of born and died statistics in literature and of endless geanealogies in history, is all very well in its place; but it does not touch the higher edge of the social problem. We

may educate without limit along such lines and perish never-the-less. The education that will save must include the science of wealth, showing who produce it, and who get it, and why, and how. It must include the science of government, making plain how lords and kings in the past worked their will and how rich men to-day practice the arts that served so well the purposes of former ruling classes. It must teach the people how to seize the reins that belong in their hands and how to guide their chariot of state.

Such an education should be imparted in every college and university in the land. But is it?—*Prof. T. E. Will, in the "Multitude."*

Duty as an Inspiration.

This is a good old world to live in, in spite of some opinions to the contrary. It is much better, on the whole, than most of us could have made. In fact, about the only things that are bothersome in life come as the result of ignorance and foolishness. However, we shouldn't let even that stand in the way of our happiness and progress. Don't give up. Don't be disheartened and sit around and sigh for inspiration to do things. If you can't do a thing through inspiration, do it through a mechanical effort. If happiness and peace and harmony do not come to you before you succeed in a given work, go on with your work, faithfully—mechanically, if need be—and rest assured that happiness and contentment will flow in with the success that will follow your labor. Too many people sigh and wait for inspiration. They say, "Oh, if I could only feel like doing so and so; if I only had the fire of it in my heart and soul." And because they haven't, they give up in despair and resign themselves to the tides and eddies of chance.

Some of the greatest of the world successes have come from a mere mechanical performance, instigated by nothing more nor less than duty. The idea is this—to do your duty tell yourself that you, too, have your little share to add to life's movement. Inspiration will come in as you open the doors in your progress. Life is expression; and unless you express, whether you feel like it or not, you are simply a breathing nonentity.

Believe in Humanity.

It is a Pharisee who draws aside his skirts and avoids contact with the multitude. It is the weak soul, who hasn't power enough to keep its equilibrium in the crowd. It is the little, frozen heart that feels lost in the throng. It is the selfish, penurious person who distrusts humanity, and expects it to rob him of some valuable thing that he does not possess. It is an empty shell that does not throb and pulsate in response to the great, throbbing, pulsating heart of the multitude. It is belief in humanity that broadens the mind, that strengthens the will, that develops the heart and soul, and makes one a magnet for happiness and success.

It is belief in humanity that lifts the multitude up, that gives it faith in itself, that inspires it to greater and nobler efforts.

It is belief in humanity that causes evolution and prevents revolution.

It is belief in humanity that will save the world from an earthly torment.

Believe in people, and they will love you and try in some way to be worthy of your trust.—*The Multitude.*

The world has little use for the man who prays but will not pay. And the fault is not in the praying.

The people abuse the trusts, but the trusts are teaching the people more in a few years than they would otherwise learn in a century about the way to do "things." Coming generations will be thankful that the oppression of this day was focussed in such scientific and practical methods.

If sheep are content to hearken to the bay of wolves and follow at their call they should not bewail the semi-occasional shearing and butchering that occurs. If men will prostrate their individual thought and spirit of perseverence at the sound of an empty name, they must not complain that the bow-wows dominate their civil institutions and prey upon their worldly goods.

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91 *Clearing House Report.*

Clearing House Report—Amount realized on call 133, for the month of March, 1902, was $5,688.80 collected in behalf of and paid to the following co-operators:

Mrs. Lillie B. Henning, 403 "J" St., La Porte, Ind.
Mrs. G. W. Rubsch, 330 N. 4th St., Terre Haute, Ind.
Mr. Louis Stockglausner, 1307 Shenandoah Ave., St. Louis, Mo.
Mr. Ernest E. Simpson, 1212 Jefferson St., La Porte, Ind.
Mr. Ernest Cleff, 456 Orchard St., Chicago, Ill.
Mrs. Minnie Cleff, 456 Orchard St., Chicago, Ill.
Mrs. Benj. Chenot, Collinsville, Ill.
Mrs. Lela Randall, box 36, Millburg, Mich.
Mr. Allen W. Randall, box 36, Millburg, Mich.
Mr. John S. Watt, Troy, Ill.
Mr. Frank N. Blanchard, Greenville, Ill.
Mr. Irving R. Rehm, 219 Marshfield Ave., Chicago.
Mr. Wm. Wasem, Greenville, Ill.
Mr. J. H. Mulford, Greenville, Ill.
Mr. L. W. Kieburtz, 3931 Cook Ave., St. Louis, Mo.
Mr. E. D. Minor, Greenville, Ill.
Mr. Walter H. White, Greenville, Ills.
Mr. Frank R. Hamilton, 13 W. Ridge St., Manito, Ill.
Mr. C. B. Hubbard, 362 W. Armitage Ave., Chicago.
Mrs. C. B. Hubbard, 362 W. Armitage Ave., Chicago.
Mr. Edward E. Hanger, 108 N. Clinton St., Lincoln, Ill.
Mr. Fred S. Miller, Worden, Ill.

Mr. Wm. T. Harlan, L. box 45, Greenville, Ill.
Dr. Leroy A. Wilson, New Carlisle, Ind.
Mr. John H. Landers, Worden, Ill.
Mr. Adolph Schmolinski, 3143 "A" Oregon Ave., St. Louis, Mo.
Mrs. A. Schmolinski, 3143 "A" Oregon Ave., St. Louis, Mo.
Mr. Henry Yankus, Glen Carbon, Ill.
Mr. Thomas Ronchetto, box 44, Troy, Ill.
Mr. Reuben Becktell, 1427 W. 10th St., Michigan City, Ind.
Mrs. Jos. M. Nessl, Staunton, Ill.
Mr. Joseph M. Nessl, Staunton, Ill.
Mrs. Jos. H. Webb, Pilot Knob, Mo.
Mrs. V. A. Dikeman, Meeker, Colo.
Mr. A. D. Unterbrink, box 60, Moro, Ill.
Mrs. Mary Unterbrink, box 60, Moro, Ill.
Mr. Jos. E. Sawyer, Staunton, Ill.

New members enrolled since last call, 878.

Endowment Call No. 135.

Call 135—Endowment calls No. 135, made May 1st, 1902, are due and payable no later than the 31st of the month, in accordance with the certificate of membership, in favor of the following co-operators:

List.

Mr. John B. Griesey, 415 "D" St., La Porte, Ind.
Mr. Samuel G. Mix, 615 State St., La Porte, Ind.
Mr. Frank N. Blanchard, Greenville, Ill.
Mr. J. H. Mulford, Greenville, Ill.
Mr. Emerett D. Minor, Greenville, Ill.
Mr. J. F. Johnston, Greenville, Ill.
Mr. Geo. Wolfe, Assumption, Ill.
Mr. Edward R. Dixon, Venice, Ill.
Mr. Henry A. Sturgeon, Hillsboro, Ill.
Mr. Corydon C. Brown, Beardstown, Ill.
Mr. Wm. R. Dexheimer, Taylorville, Ill.
Mr. Geo. E. Drischel, Taylorville, Ill.
Mrs. Gertie Hull, Woodson, Ill.
Mr. Leonard B. Cooper, Bunker Hill, Ill., box 641.
Mrs. Wm. C. Waters, Bunker Hill, Ill.
Mrs. John S. Dickie, Bunker Hill, Ill.
Mr. John S. Dickie, box 83, Bunker Hill, Ill.
Mr. Rudolph Luddeke, Butler, Ill.
Mr. Robert C. Mills, Collinsville, Ill.
Mrs. Jas. T. Fulker, Edwardsville, Ill.
Mr. Edward J. Helmer, 837 Oak St., Quincy, Ill.
Mr. John C. Shea, care of Gem City Paving Brick Co., Quincy, Ill.
Mr. C. A. Osborn, 720 N. 4th St., Quincy, Ill.
Mr. Louis P. Rouse, Jr., 117 N. 6th St., Quincy, Ill.
Mr. George B. Ripley, box 184, E. St. Louis, Ill.

Mr. Frank P. Brigham, 616 Chartrand Ave., E. St. Louis, Ill.
Mr. Chas. A. Ketterer, 358 College Ave., E. St. Louis, Ill.
Mr. Augustus Lawson, Rosemond, Ill.
Mrs. Minnie A. Edwards, Donnellson, Ill.
Mr. Geo. J. Weininger, 5634 S. Halsted St., Chicago.
Mr. Reuben H. Fey, 1102 W. Harrison St., Chicago.
Mr. E. W. Marshall, 1334 W. Van Buren St., Chicago.
Mrs. Louis S. Bitter, 1823 Seventeenth Ave., Moline, Ill.
Mr. Geo. Hemken, 412 Vine St., Alton, Ill.
Mr. Aug. F. Barth, 652 E. 2nd St., Alton, Ill.
Mr. Chas. W. Fretz, 214 Piasa St., Alton, Ill.
Mr. Edward E. Hanger, 108 N. Clinton St., Lincoln, Illinois.
Mr. F. R. Covert, Granite City, Ill.
Mr. Wm. F. Fehling, Granite City, Ill.
Mr. Herman Sieveka, Wyoming, Ia.
Mr. Asa E. Hoffman, Kansas City, Kan.
Mr. Geo. Broeggelmeyer, E. St. Louis, Ill.
Mr. Geo. D. Benner, La Porte, Ind.
Mr. Robert W. Merryweather, Quenemo, Kan.
Mr. J. A. Robinson, Cloverland, Ind.
Mr. Lester E. Hollar, Burdick, Ind.
Mr. Otto J. Sackman, Burdick, Ind.
Master W. J. Denison, Jr., 3337 Sixty-fourth Place, Chicago.
Mr. Henry Hamilton, Chicora, Mich.
Mrs. H. F. Cohn, Jr., 1725 W. Chestnut St., Louisville, Ky.
Mrs. Chas. Maas, Gettysburg So. Dak.
Mr. George H. Hamilton, care of Big 4 ticket office, Alton, Ill.
Miss Catharine Chambers, Alton, Ill.
Mr. C. C. Zimmerman, 150 N. Pitt St., Carlisle, Pa.
Mr. Frederic H. Clarke, 89 N. Ionia St., Grand Rapids, Mich.
Mr. Fred L. Seger, Leslie, Mich.
Mr. Carl E. Barber, Shaw, Miss.
Mr. Ben. N. Lovelace, 1111 E. 6th St., Pueblo, Colo.
Mr. T. J. Glascock, 1031 Armstrong Ave. Kansas City, Kan.
Mr. John F. George, Y. M. C. A., Pine Bluffs, Ark.
Mr. Wm. A. Sims, 710 English Am. Bldg., Atlanta, Georgia.
Prof. J. Ward Meyers, care of K. P. Bldg., Des Moines, Ia.
Mr. Elmer M. Webb, Oconomowoc, Wis.
Mrs. Maggie C. Stover, Stemm, Mich.
Mr. Perry Marrs, Pipestone, Mich.
Mr. Ira L. Swisher, Thompsonville, Mich.
Dr. Harry C. Miller, Cambria, Mich.
Mr. Walter E. Priddy, Berrien Springs, Mich.
Mr. Peter S. Stauffer, 900 Wis. Ave., St. Joseph, Mich.
Mr. Wm. H. Crouse, Grand Junction, Mich.
Mrs. A. I. Haney, Benton Harbor, Mich.
Mrs. Laura B. Bogert 3717 Carlisle St., Philadelphia, Pa.
Mr. Frank E. Mattis, care of P. W. W. F. Co., Monessen, Pa.
Mr. Joseph M. Richards, 417 Bird St., Hannibal, Mo.
Mrs. Margaret Speidel, 1014 Center St., Hannibal, Mo.

Mr. C. F. Garner, 307 Chestnut St., Hannibal, Mo.
Mr. J. P. O'Hern, 112 So. Main St., Hannibal, Mo.
Mr. Alvora E. West, 709½ Bdwy., Hannibal, Mo.
Mr. Frederick C. Burkey, 120 N. Main St., Hannibal, Mo.
Mrs. O. M. Madison, Vandalia, Mo.
Mr. Alfred Jaeger, Jr., box Y, Monroe City, Mo.
Mr. Wm. T. Rutledge, box 396, Monroe City, Mo.
Mrs. Emma Lee, 444 S. Fellow St., South Bend, Ind.
Mr. Henry Birkett, 524 Wabash Ave., Terre Haute, Ind.
Mrs. Ruth L. Lindgren, 1710 State St., La Porte, Ind.

Remittances.--Remittance for endowment calls and membership fees should be made by Chicago or New York exchange, express or post-office money order, payable to M. J. Baxman, treasurer. One cent postage stamps in good condition will be accepted. Local checks, outside of Chicago cannot be accepted on account of exchange.

92 & 93 *Collectors of Endowment Calls.*

New York, N. Y. { W. H. Bisp, N. Y. manager,
E. J. Davis, N. J. manager,
15 Cortlandt street.

Kansas City, Kas.—Commercial State bank.
Ramsey, Ills.—Samuel C. Morrison (merchant).
Edwardsville, Ills.—First national bank.
Alton, Ills.—Paul Bros., druggists, East End.
Alton, Ills.—Barth's pharmacy, West End.
Eudora, Kas.—Kaw Valley bank.
Greenville, Ill.—Davis & Mulford, druggists.
Waterloo, Ills.—Waterloo State bank.
Granite City, Ills.—Judd & Gontermann, drugs.
Jefferson City, Mo.—Lartonoix & Wallendorf (merchants).
Aurora, Ills.—W. W. Walker, district manager, 326 N. Y. street.
Des Moines, Ia.—Chas. A. Higgins, State manager, 35-37 Clapp Bldg.
Hannibal, Mo.—J. P. O'Hern (druggist).
Waverly, Kas.—P. C. Peterson (merchant).
Collinsville, Ills.—Collinsville State bank.
Kenosha, Wis.—Katharine Flynn, 425 Pearl St.
Ottawa, Kas.—Miss A. R. Boyer, representative.
Coffeen, Ills.—American exchange bank.
Mascoutah, Ills.—Gust. J. Schere, banker.
Sorento, Ills.—Jas. F. Smith, merchant.
Valparaiso, Ind.—F. W. Wager.
Milwaukee, Wis.—Edward A. Kupfer, 671 Third St.
Racine, Wis.—Henry Jacobsen, merchant, 1328 Washington Ave.
Grand Rapids, Mich.—H. S. Osborn, district manager.
Barrington, Ills.—H. T. Abbott (druggist).
Grand Rapids, Mich.—J. R. Wyckoff, representative.

Rochester, N. Y.—R. W. Powell, district manager, 1032 Granite Bldg.
Fitzgerald, Ga.—A. G. Brown, agent express office.
Waukegan, Ills.—S. Worsfold, representative, 109 Madison street.
Bloomington, Ill.—L. M. Kershner, representative.
Hancock, Mich.—John Vickers, representative.
Danville, Ill.—Theo. Lyon & Co., merchants.
Milwaukee, Wis.—William Gerhard, 907 Third St.

Important.

The May call blank appears below.

Cut it out, fill in your name, address and folio number. If you are remitting other calls besides your own, put names, addresses and folio numbers on separate sheet. Enclose all with remittance. Remit by P. O. money order, express order or registered letter. Any other way is at your own risk.

Receipts.—Send remittances as above and no additional clearing house receipt is needed. If office receipt and return envelopes are wanted, enclose 2 cent stamp with remittance and they will be returned. The fact that your call reaches you, prove that the last call has been received by clearing house and properly credited. Address letter, plainly, to

Board of managers, L. of E., 184 La Salle St., Chicago, Ills.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

(Cut here.)

Write folio number

.....

in here.

Members will please write their name and address on this blank and return it with remittance. If you have sufficient credit to cover this call it is not necessary to return this blank. If you remit other calls with your own, write names and folio numbers on separate sheets or call blank and send it in with this.

May endowment calls $1.05.

Make drafts or money orders payable to M. J. Baxman, treasurer.

(No checks accepted.)

Call 135

Date —— ——

M. J. Baxman, treasurer, League of Educators, Chicago, Ill.

DEAR SIR: Enclosed I hand you —— for $1.05 in payment
(Designate what you enclose.)
of endowment calls No. 135, due May 1, 1902, in favor of members designated in the May "Vigilant."

Fraternally yours,

Name —— ——
P. O. —— ——
Street and number —— ——State —— ——

Cut here.

For complete statement for which calls are made see back of this call.

"Should the holder of this certificate fail to pay any endowment calls to the league within thirty days from the date of notice (which the secretary mails to the last address given) then this certificate shall be null and void."—Extract from membership certificate.

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(Here follows fac-simile marked p. 94.)

95 Ex. E.

A whisper in your ear.

Listen attentively and save yourself any worry in the future.

Sometimes by reason of ignorance of the principles of true co-operation, and sometimes for malicious purposes, articles appear in the newspapers, telling how impossible it is to do what is being done by the members of the League of Educators. When such articles appear, remember they are the result of ignorance or maliciousness, and instead of writing to the board of managers about it, get out this circular and read it carefully and then work all the harder to get others to read about and investigate the league's system of co-operation, at which time they will be glad of the opportunity to join the league and become true co-operators with you.

When you see such newspaper articles derogatory to the league, it is a certainty that back of them is ignorance or maliciousness, else the detractors would claim the *bona fide* $1,000.00 offer made by the management to anyone who can make and sustain a single objection to the league's system of co-operation.

First. Remember that the League of Educators is not a commercial organization of any kind and therefore does absolutely no business whatever in the ordinary business or commercial sense.

Second. Remember that it advocates an economic principle and system which is just the opposite of the present financial system.

Third. Remember that the league teaches a system that economists have long held to be ideal, practical and imminent.

Fourth. Remember that our present financial system is not a system at all, but a jumble of expedients that financiers themselves confess to be very faulty, but disclaim power to improve.

Fifth. Remember that the basis of the league's legal existence is the Constitution of the United States, which gives the people in each State a constitutional right to co-operate with one another in a purely mutual way without restriction. Article IV, section IV, Constitution of U. S. says: "The United States shall guarantee to every State in this Union a republican form of government."

Sixth. Remember that any set of men or any newspapaper, that claims that purely mutual co-operation, as applied by the League of Educators, can be stopped in any State, is grossly ignorant of what the league really is and how it is operated.

Seventh. Remember that it is no more possible to prevent the people in each State from joining the league and co-operating with one another in this purely mutual way than it is to prevent them from breathing.

Eighth. Remember that the League of Educators is the only organization in the world so far as known, that is operating on the profit-making purely mutual co-operative side, and those who are saturated with commercialism as administered under our present

economic profit-taking system, do not understand the league; but look at it from the side of our present commercial system, which enables the few to exploit the people for private gain.

Ninth. Let it be understood by all true Americans that there is no possible way by which a purely mutual voluntary association, which has the Constitution of the United States as the basis of its legal existence, *to* be interfered with or restricted, so long as we have a republican form of government.

Tenth. Remember that as the league is a purely mutual co-operative organization, all are on the same equal and *pro-rata* basis; all are alike and bear the burden alike, so, therefore, there can be no such thing as a failure or breaking up of the league as often occurs in profit-taking financial organizations.

Eleventh. Remember that the League of Educators will meet and overcome all opposition because the Constitution of the United States will protect it and because truth, which is mightier than the sword will prevail.

Twelfth. Remember that the League of Educators is the people themselves. They constitute the league. They operate and govern the league's system of co-operation by their "wills," and the will of the people is supreme in this country.

Thirteenth. Remember that the League of Educators bears the same relative position to the people as the political parties to the nation, which are voluntary associations of voters organized for the purpose of carrying into effect the will of the people.

Fourteenth. Remember that the League of Educators is a voluntary association of co-operators who believe in the principles of purely mutual co-operation, and that it is always controlled by the will of the people; all having a common welfare which is the welfare of the people as a whole.

Fifteenth. Remember that the League of Educators is a body of people who have entered into a perfect copartnership of the whole, and when this is done, local and State jurisdiction from that moment ceases; the personal desires and interests of the members being carried out according to the will of the whole, for in a republican form of government, the will of the whole is concrete, ultimate and supreme law.

Sixteenth. Remember that this principle is the original one under which our Government was founded; and leading thinkers and writers are warning Americans all the time lest they depart from it.

Seventeenth. Remember that when the papers and people talk about laws, they talk of what the people as a whole, form, make and decree. When the people form, make and decree that the league shall exist, they are simply proclaiming that they, the people, shall exist under a republican form of government.

Eighteenth. Remember that the valuable point in the league's plan is its avoidance of expense and waste, otherwise the people as a whole could not exploit their dollars at such slight cost to them as is done through the league.

Nineteenth. Remember that those who say it cannot be done, over-

look the fact that it is being done right along and that no liabilities are created for a terrible day of reckoning, or no surplus is being accumulated to be mis-used.

Twentieth. Remember that co-operation, being honest, its trade is an open trade, and for this reason all books, records, papers and everything else used in connection with the league's work can be examined at any time by any one. In co-operation, the more publicity the more prosperity, hence the reason all records are open for the inspection of the public.

Twenty-first. Remember that the right understanding of the league's system of co-operation will teach you that it is an impossibility for there to be any such elements as chance, risk or loss in it. Such elements can only exist under our present economic profit-taking financial system. If there could be such elements as chance, risk or loss in the league, then it would not be purely mutual co-operation, because purely mutual co-operation, or the will of the people as a whole, does away with all of the elements that make people suspicious and doubtful.

Twenty-second. Remember that individuals must learn and must realize that their life, happiness and liberty are correlated with the whole; that they cannot evolve the higher forms of either of these apart from the whole. This is the great truth of truths; this is the one truth and the most important truth, yet to be incorporated in our decalogue of practice; this is the truth which underlies the brotherhood of man; and this is the truth which underlies the virtue of love and the value of wisdom.

Twenty-third. Remember that the board of managers acts only as a clearing-house for members and does not obligate itself in any way whatever, except to do the clerical work and make the *pro-rata* calls for members and disburse the full amount realized each month, less 5 per cent.

Twenty-fourth. Remember that the earning power of the league is in the increase in the membership and that the system operates between the two limited numbers as explained in the literature, which fact makes the system absolutely perfect, and guarantees each member or co-operator against loss; but it remains with the members as to whether the profit or realization shall be large or small. The people are "willing" a large realization at a small expense at this time and they will continue to do so because selfish instinct, which is natural in human beings, and honest self-interest, impel people to continue to join the league and co-operate with another in this purely mutual way.

Twenty-fifth. Remember that the board of managers does the work for each member for 5 % of each dollar handled, and that the board does not receive pay for its services until the member realizes, at which time the board receives 5 % and the members 95 cents of each dollar produced.

Twenty-sixth. Remember that no State departments or State officials can have any jurisdiction or authority over the League of Educators, because this is a republic, and in a republic, the will of

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

the people is the spirit of the law, paramount, and over-ruling all written law, for every law of the republic is subservient to the source of all its law—subservient to the will of the people.

Twenty-seventh. Remember that the Republic was founded to establish the will of the masses, the will of the majority, as the supreme law of the land, and this same principle applies to the League of Educators, inasmuch as the will of its members governs and controls the system of co-operation as applied by the league.

Twenty-eighth. Remember that there can be no law enacted which could prevent or restrict people from joining the league and co-operating with one another in this purely mutual way, for such a law would be against the spirit of the law of the Republic—the will of the people, and would therefore be null and void.

Twenty-ninth. Remember that when an official of a republican form of government performs his duty, not to the people but to individuals in conspiracy against the people—such an official violates his oath of office and is guilty of high treason against the people and therefore of high treason against the Republic.

Thirtieth. Remember that officials, of both high and low degree, occupy places under laws formed by the people, and are entrusted only with the duty of executing such laws, and are not delegated to furnish, off-hand, laws or rulings of their own conception, notions or whims. Such assumption of power is always an assault on the liberties of the people and always meets its just fate.

Thirty-first. Remember that as a whole, the League of Educators is not amenable to any statute law. Individually however, the board of managers is strictly amenable to every law, civil, moral, common or statute. As a whole, the league enjoys constitutional rights; as individuals, no one seeks special privileges.

Thirty-second. Remember that the League of Educators is fostering and advocating a truth and a principle that is dear to the people; namely, "We, the people, do hereby unite ourselves into one great brotherhood to promote the welfare of one another and to establish a system of co-operation and distribution for the benefit of the whole people instead of a part."

BOARD OF MANAGERS,
LEAGUE OF EDUCATORS,
Chicago, Ills.

Clearing house: 184 La Salle street.

(Here follows fac-simile marked p. 96.)

97 Ex. G.

Important Notice.

DEAR CO-OPERATOR: As you have already been informed, a corporation known as "The Public Clearing House" has taken over the records and good will of the board of managers, of the League of Educators, and in checking up your card it shows that your October endowment calls have not been received.

You may have sent same, but by reason of the malicious work that has been going on it has been returned to you. If you have not as yet received same, it will be sure to reach you as soon as it can be returned from the Dead Letter office. By responding at once you will be in good standing, and your period of co-operation in the League of Equity will date from the date of your old certificate, and the clearing for these calls can be made at an early date. Remit by bank draft or express order payable to O. B. Lansberry, ass't treasurer, and send same in the enclosed envelope.

Fraternally yours,

BOARD OF MANAGERS, THE LEAGUE OF EDUCATORS.

98 Ex. H.

L. of E.
EQUALITY.

A society for the promotion of the principles of true co-operation.

C. FRANKLIN DAVIS, *Pres't.*
M. J. BAXMAN, *Sec'y & Treas.*

BOARD OF MANAGERS,

LEAGUE OF EDUCATORS.

CO-OPERATORS.

CLEARING HOUSE,
184 LA SALLE ST.
Phone, main 4387.

L. of E.
Offices:
New York, N. Y., 15 Cortlandt St.
Des Moines, Ia., 35 & 37 Clapp bl'k.
Rochester, N. Y., 1032 Granite bldg.
Lincoln, Neb., 301 & 302 Richards block.

CHICAGO, ILL., *Oct. 27th*, 1902.

Mr. J. N. McCormick, Newton, Ill.

DEAR SIR: As you perhaps know there has been a conspiracy going on for some time for the purpose of trying to interfere with the rights and liberties of all of you co-operators and this conspiracy centers in the State of Michigan, the whole trouble having been caused by the work of politicians in that State.

The postmaster at this place has been holding the mail that belongs to you co-operators for the past month and by so doing had made himself criminally liable.

The board of managers in behalf of all co-operators made an application in the Federal court for an injunction to restrain the postmaster from interfering with your rights by holding letters, and

Judge Kohlsaat stated plainly in chambers that the postmaster was holding the league's mail unlawfully and illegally and in order to protect the postmaster here, an order was issued giving him permission to return the letters he was holding to all co-operators.

The writer spent three weeks in Washington, and found that the thing that was necessary was to get rid of the name of League of Educators for the reason that if the organization continued under that name, these politicians felt that they would be injured politically, inasmuch as they had failed to stop the organization in Michigan.

"The Public Clearing House" is now being organized and a new organization affected, and yourself as well as all of your co-operators will receive The Vigilant and a letter giving a full explanation soon.

No matter what is said or done, co-operation as applied by the League of Educators will live and become stronger each day, and yourself or any of the members need not feel the least disconcerted. Everything will come out al-right.

As soon as you receive the next Vigilant, which is being rushed and the letter of explanation, everything will be clear to you, and you can go right on without any interference whatever. We believe that the present trouble is simply a misfortune which will prove to be a blessing in disguise. None of the co-operators will lose anything and the re-organization will enable you to go right on in better shape than ever before.

Will keep you posted, and assuring you that everything will come out for the best, we remain

Fraternally yours, C. F. DAVIS.

P. S.—Keep all applications in your possession and you will be advised when to send them in with other remittances.

C. F. D.

99 Ex. "I."

L. of E. EQUALITY.

A society for the promotion of the principles of true co-operation.

C. FRANKLIN DAVIS, *Pres't.*
M. J. BAXMAN, *Sec'y & Treas.*

BOARD OF MANAGERS,
LEAGUE OF EDUCATORS.
CO-OPERATORS.

CLEARING HOUSE,
184 La Salle St.
Phone, main 4387.

L. of E. Offices:
New York, N. Y., 15 Cortlandt St.
Des Moines, Ia., 35 & 37 Clapp bl'k.
Rochester, N. Y., 1032 Granite bldg.
Lincoln, Neb., 301 & 302 Richards block.

CHICAGO, ILL., *October 29th*, 1902.

DEAR CO-OPERATOR: You perhaps know there has been a conspiracy going on for some time for the purpose of trying to interfere with the rights and liberties of all of you co-operators and this conspiracy centers in the State of Michigan, and is backed by malicious

persons who are trying to justify themselves in what they have been doing in Michigan to the detriment of all the co-operators in that State.

The postmaster at this place has been holding the mail that belongs to you co-operators for the past month, and by so doing has made himself criminally liable.

The board of managers in your behalf made an application in the Federal court for an injunction to restrain the postmaster from interfering with your rights by holding letters, and Federal Judge Kohlsaat stated plainly in chambers that the postmaster was holding the league's mail unlawfully and illegally and in order to protect the postmaster here an order was issued giving him permission to return the letters he was holding to you co-operators.

They do not claim that the management of the league has done anything wrong, but on the other hand they state they are satisfied that the league's work has been conducted honestly.

No matter what is said or done, co-operation as applied by the League of Educators will live and become stronger each day and in order to protect the co-operators, a new organization must be affected and "The Public Clearing House" has been organized, to which all remittances must hereafter be sent as per the enclosed envelope. This "Public Clearing House" has been organized on very broad lines and will extend the field of co-operation so that co-operators will realize benefits in many more ways than they possibly could under the old organization.

The organization itself is known as the "League of Equity" and "The Public Clearing House" which is a corporation organized under the laws of the State of Illinois, will receive and disburse all money each month as has been done in the past by the board of managers of the league. This must be done to avoid any more confusion or trouble such as has been stirred up by malicious persons in the past.

"The Public Clearing House" has been organized in such a way so that it can never be interfered with and in the end this malicious work that has been going on will prove a blessing to all true co-operators.

The Vigilant will continue to contain good co-operative literature as well as full information concerning the workings of the organization and "The Public Clearing House" which acts for it and which has been organized for the protection and benefit of all persons who wish to co-operate with one another in a purely mutual way.

Each co-operator who fills out the enclosed application blank and returns it at once will be given proper credit for past co-operation both as to time, money and number of new co-operators secured, so do not fail to return same at once in the enclosed envelope that your interests as a co-operator in the past may be protected and you will receive in a few days the "co-operators' agreement" with full instructions as to when you should pay your monthly share.

Fraternally yours, C. FRANKLIN DAVIS.

100 EX. "J."

C. FRANKLIN DAVIS,
President.
MARTIN J. BAXMAN,
Sec'y and Treas.

THE PUBLIC CLEARING HOUSE

(Incorporated),

184 La Salle street, Chicago, Ills.

Fiscal agents for

LEAGUE OF EQUITY

In the United States and Canada.

A clearing house for everybody and everything.

L. of E. EQUALITY.

A society for the promotion of the principles of true co-operation.

District managers throughout the United States and Canada.

CHICAGO, *November 7th*, 1902.

DEAR CO-OPERATOR: Enclosed herewith is the co-operator's agreement, which marks your entry into the newer and more perfect organization and attests your unflagging loyalty to liberty and equality.

You will notice that this agreement is on lines of absolute equity and that it secures to you the exact results of the combined co-operative service of yourself and every other co-operator without condition or provision. All you are to do is to continue as you have been doing, gaining new co-operators and thinking, talking and working for purely mutual co-operation.

Your "co-operator's agreement" is just like every other one and every one is on the identical basis you are. The report on the next realization will show you how completely all your fellow co-operators have taken the same course you have pursued in re-affirming their rights to perpetuate this now great movement.

Remember that while your new agreement bears the date of issue, your card at the clearing house has been transferred as it stands, and your realization will come as to time, according to that record, and in amount as is shown on the causation table; hence no loss or delay to any co-operator because of the miserable conspiracies of those who thought they would kill co-operation and cause you loss.

If your responses to September and October calls failed to reach the board of managers, or have been returned to you, they can be sent in before the 25th inst. and proper credit given you. This should be attended to at once so your card will show an unbroken record. Send such amounts to the fiscal agents. The monthly share of $1.00 to pay for November realizers can be sent at the same time.

The December Vigilant will be issued at an early date, and will contain names of said realizers. By attending to all these minor points at once you will greatly facilitate the work of your fiscal

agents and show your zeal and willingness to stand on your rights, even in the face of temporary hindrance.

Assuring you of the loyalty to you and your interests, of all the thousands of other true co-operators, we remain

Fraternally yours,

THE PUBLIC CLEARING HOUSE.
M. J. BAXMAN.

P. S.—Be especially careful to use only envelopes printed or plainly addressed "The Public Clearing House." Kindly destroy all old addressed envelopes, circulars, etc., so as to avoid errors.

M. J. B.

101 Ex. K.

General post office, executive division, Chicago, Illinois.

In your reply please refer to date, initial, and number. MS–3–02.

Subject: League of Educators.

NOVEMBER 10, 1902.

{ Office of Ass't Attorney General. Received Nov. 12, 1902. Post Office Department. }

Hon. Jas. N. Tyner, Ass't Attorney General, P. O. D., Washington, D. C.

SIR: In connection with correspondence recently had with your office concerning the League of Educators, I enclose herewith sample copy of agreement which has been submitted to this office, signed by C. Franklin Davis, president and M. J. Baxman, secretary and treasurer, for "The Public Clearing House" as fiscal agents for the "League of Equity," formerly president and secretary and treasurer, respectively, of the League of Educators.

Very respectfully, F. E. COYNE, *Postmaster.*

Enclosure.
Agreement.

(Here follows fac-simile marked p. 102.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

103 Ex. M.

C. FRANKLIN DAVIS, *President.*
MARTIN J. BAXMAN, *Sec'y and Treas.*

L. of E. EQUALITY.

A clearing house for everybody and everything.

THE PUBLIC CLEARING HOUSE

(Incorporated),

184 La Salle street, Chicago, Ills.

A society for the promotion of the principles of true co-operation.

District managers throughout the United States and Canada.

Fiscal agents for

LEAGUE of EQUITY

In the United States and Canada.

CHICAGO, *Nov. 7th*, 1902.

Mr. J. N. McCormick, Newton, Ill.

DEAR SIR: This is to inform you that everything is in good working order but think it best to make new agreements with all the managers, inasmuch as you are to be allowed a greater remuneration. The 50 cents' credit that has been going to the co-operator now goes to the manager, and you will find duplicate copies of new agreement enclosed, one copy for you to sign and return and a good lot of new supplies will be sent at once.

The re-organization has been perfected in such a way so that there can never be any more interference, and when you understand the exact status of things you will recognize the fact that we have been going through an experience that was a blessing in disguise.

Particular attention has been paid in re-organizing to get everything in shape so that the manager and co-worker can make big money and everything has been cut out that was hard to get the people to understand, and your co-workers will have no trouble to make everything plain hereafter to all with whom they come in contact. Everything is made so plain and simple that a little child can understand it.

Destroy all old literature and envelopes to avoid errors in the future. Kindly sign and return one agreement at your earliest convenience.

Fraternally yours, C. F. DAVIS.

104 Ex. N.

Memorandum of agreement made and entered into this 7th day of November, A. D. 1902 between Mr. J. N. McCormick of Newton, State of Illinois, and the League of Equity in the United States and Canada.

Witnesseth: That the said J. N. McCormick has this day been

appointed general manager of the League of Equity in the United States and Canada in Jasper, Effingham, Crawford and Cumberland counties of Ill. and is empowered to cover said territory with a corps of co-workers on such terms as he may designate to them.

1st. The said J. N. McCormick shall adhere faithfully to the principles of purely mutual co-operation as promulgated by the League of Equity.

2nd. The said J. N. McCormick shall devote his entire and undivided time in the interests of the League of Equity during the term of this agreement and agrees that he will promptly remit 50 cents to the Public Clearing House as fiscal agents of the League of Equity with each application for the co-operator's agreement: it being understood and agreed that if any co-worker appointed by the said J. N. McCormick in said territory sends any applications for a co-operator's agreement in said league direct to its said fiscal agents, said co-worker shall remit the difference between the enrollment fee and the amount allowed to such co-worker as commission by the said J. N. McCormick, the amount of which, less 50 cents shall be credited to the said J. N. McCormick and remitted to him by the Public Clearing House as fiscal agents of said league on the first of each month.

3rd. The said J. N. McCormick shall promptly report the name of each co-worker so appointed by him and agrees that he will not cut the price of the enrollment fee of $3.00 or allow his co-workers to do so, and if the said J. N. McCormick or any of the co-workers appointed by him at any time cut the price of said enrollment fee, then this agreement shall become null and void.

4th. The said J. N. McCormick agrees that he will promptly report to the Public Clearing House all applications in said league received by him and that he will send in a written report to the fiscal agents of said league not less than once each week.

5th. In consideration of the said J. N. McCormick faithfully performing the aforesaid services for and in behalf of the said league, he shall be allowed to retain for his own use and benefit the sum of $2.50 out of each enrollment fee on all applications secured by him or any of the co-workers appointed by him in said territory, said amount is so allowed to him in order that he may devote his entire time and attention to the interests of the said league.

6th. As a further consideration for the said J. N. McCormick devoting his entire time and attention to the interests of said league he shall be allowed one half of the enrollment fee on all applications which may be received by the Public Clearing House in any way from said territory except by the efforts of co-workers as hereinbefore provided for, it being understood that the amount so received on applications shal be credited to the said J. N. McCormick and remitted to him by the Public Clearing House as fiscal agents of said league on the first of each month.

7th. This agreement shall remain in full force and effect for a period of ten years unless it is forfeited and rendered null and void as herein before provided.

8th. The said J. N. McCormick agrees to faithfully and honestly represent the said league in said territory and to properly and correctly present the league's plan of co-operation and not to make any misrepresentations of the said league or its work under any circumstances.

In witness whereof the said J. N. McCormick has signed and sealed this agreement, and the Public Clearing House as fiscal agents of the League of Equity has caused this agreement to be executed by its president and has affixed hereto its corporate seal.

[CORPORATE SEAL.] THE PUBLIC CLEARING HOUSE.* [SEAL.]*
C. F. DAVIS.

105 Ex. O.

Application for Co-operator's Agreement in the League of Equity, Formed for Mutual Benefit of True Co-operators.

I herewith enclose three dollars ($3) and apply for the co-operator's agreement in the League of Equity.

1. My full name is —— ——
(Be sure and prefix your name with Mr., Mrs. or Miss, as the case may be.)
2. My age is — yrs.
3. My permanent address where notices are to be sent, is St. and No. — ——
Town ——
County —— State ——

Declaration.

I warrant the above statement to be true and complete, and I agree to co-operate faithfully according to the terms of the co-operator's agreement, and hereby authorize and empower the Public Clearing House to act as my agent in this behalf.

Signature of applicant —— ——
Dated at —— this — day of —— 190–
Recommended by —— ——
Recommender's No. — Address ——

Address all communications to The Public Clearing House (Incorporated) 184 La Salle street, Chicago, Ill. C. Franklin Davis pres. Martin J. Baxman, sec'y and treas.

[*Erased in copy.]

Ex. P.

Write your number League of Equity

in here. In the United States and Canada.

The Public Clearing House (incorporated), 184 La Salle St., Chicago, Ill.

DEAR SIR: Enclosed I hand you — for $1.00; my monthly share for the co-operators named in the November list to appear in December *Vigilant*.

Fraternally yours,

Name —— ——

P. O. ——

State ——

NOTE.—Take notice that each one's monthly share to pay hereafter will be exactly $1.00, no more and no less (see co-operators' agreement), which amount must be sent between the 1st and 25th of each month without notice.

(Here follows fac-simile marked p. 106.)

107 And on to wit: the 8th day of December, 1902, came the complainant in said entitled cause by its solicitor aad filed in the clerk's office of said court its certain replication in words and figures following to wit:

Replication.

UNITED STATES OF AMERICA, *Northern District of Illinois,* } ss:

In the Circuit Court of the United States for the Northern District of Illinois.

THE PUBLIC CLEARING HOUSE *vs.* F. E. COYNE, as Postmaster, &c. } In Equity.

The replication of The Public Clearing House, complainant, to the answer of F. E. Coyne, as postmaster, &c., defendant.

This replicant saving and reserving to itself now, and *a* at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer of the said defendant for replication thereunto says that it will aver, maintain and prove its bill of complaint to be true, certain and sufficient in the law, to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this repliant without this; that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law, to be re-lied unto and not herein and hereby well and sufficiently replied unto confessed and avoided traversed or denied is true. All which matters and things this repliant is ready to aver, maintain and prove as this honorable
108 court shall direct, and humbly pray-, as in and by its said bill it has already prayed.

D. I. SICKLESTEEL,
Solicitor for Complainant.

(Endorsed:) Filed Dec. 8, 1902. Marshall E. Sampsell, clerk.

109 And on to-wit: the 8th day of December, being one of the days of the regular July term of said court, 1902, in the record of proceedings thereof in said entitled cause before the Hon. Christian C. Kohlsaat, district judge, appears the following entry to-wit

Order of December 8, 1902.

PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster of Chicago. } 26538.

Now come the parties by their solicitors, and thereupon on motion of the complainant's counsel, it is ordered that this cause be and the same is hereby referred to William M. Booth, Esq., one of the masters in chancery of this court, to take the testimony herein and report the same with his conclusions with all convenient speed.

110 And on to-wit: the 6th day of January, 1903, there was filed in the clerk's office of said court in said entitled cause a certain master's report on final reference together with objections thereto in words and figures following to-wit:

Master's Report on Final Reference.

United States Circuit Court, Northern District of Illinois, Northern Division. In Chancery.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster, etc. } Bill No. 26538.

Master's report.

To the Honorable Christian C. Kohlsaat, judge of said court:

The undersigned master in chancery, to whom the above cause was referred to take the proofs of parties and report the same with his conclusions thereon, respectfully reports that pursuant to said reference the parties hereto attended before him by their respective counsel, on the 17th, 18th, 19th, 23rd, 28th and 30th days of December, 1902 and thereupon certain oral and documentary evidence was adduced on behalf of the respective parties, all of which documentary evidence, together with a full, true and correct transcript of said oral evidence, is filed herewith; and having considered the evidence, and arguments made by counsel for both parties, the master finds as follows:

1. The complainant is a corporation organized under the
111 laws of the State of Illinois, for the purpose, as stated by its charter, of doing a general brokerage and commission business, collecting and disbursing money and conducting an exchange or information bureau for the benefit of patrons. The evidence shows that the said complainant had made a beginning of several different kinds of business and its managers had opened negotiations with different laundry proprietors, preparing to place laundries on a

co-operative basis; also to handle fruits and poultry in the same manner, and also to purchase and sell goods on behalf of its patrons on commission and to exchange goods in specie in the same manner for a commission, and had actually transacted some small amount of such business, but the principal business and object for which the said complainant was organized appears to have been to act as the fiscal agent of a certain voluntary association called the League of Equity. This League of Equity consists of a large number of people, approximately five thousand at present, of various occupations and scattered throughout the United States and Canada, each of whom in his application for membership, consents that the Public Clearing House shall act as fiscal agent for said League of Equity. The said League of Equity was in a way successor to a prior organization called the League of Educators, and this in turn succeeded to a still prior organization called the League of Eligibles, and a certain organization or partnership called the board of managers of the League of Educators and the board of managers of the League of Eligibles were respectively fiscal agents for the two organizations.

The League of Eligibles was established in the year 1898, and was a voluntary association of unmarried people. Their certificates became matured or realized upon the contingency of mar-
112 riage, provided that such marriage did not occur within one year from the time when they joined the league. The certificate had a fixed realization value of five hundred dollars, and was paid out of the monthly *pro rata* assessment levied upon all members of the league for the benefit of those members whose certificates were matured or realized.

The plan of the League of Educators was the same, except that it substituted a fixed time for the realization of the certificates, and eliminated the marriage contingency feature.

2. The plan of the League of Equity differed from that of the League of Educators only in having a fixed monthly payment of one dollar, instead of a fluctuating or variable assessment. When the first change was made there were about thirteen hundred members of the League of Eligibles, all of whom were given an opportunity to become members of the League of Educators without additional cost and without losing the benefit of their previous term of co-operation, and many of them availed themselves of this opportunity and became members of the League of Educators. Again, when the League of Equity was formed, the League of Educators consisted of some nine thousand members, who were allowed the same privilege of joining the League of Equity, and up to the time when the fraud order was issued against the latter concern, between four and five thousand of the members of the League of Educators had joined the League of Equity.

3. The evidence showed that up to about the first of November, 1902, during the period of the existence of the League of Eligibles and League of Educators, there had been collected from about 13,784 members a total of $137,390.66 out of which the board of man-

agers had taken about $36,000 for their expenses and com-
113 pensation for themselves and agents in the field. The remainder had been distributed among some 600 or 700 members, and at that time the board of managers had no money in their hands.

In other words, 600 or 700 members had received an average of something less than $170 each, and over ten thousand members had received nothing.

4. The board of managers of the League of Educators had during its business as fiscal agent for said league accumulated a large number of address cards of different persons throughout the country, which had been secured through the members or co-operators, and these address cards were at or about the time of the organization of the Public Clearing House sold to said Public Clearing House by the said board of managers, for the sum of $2500.

5. The complainant, The Public Clearing House, as such fiscal agent of the League of Equity, invites people to join the said league, and holds out inducements in the shape of a large return for small amounts of money and for services to be rendered by members of co-operators in inducing others to become members or co-operators. There is no contract or agreement issued or entered into with members by the League of Equity itself as a body or association, but a certain so-called co-operator's agreement, a copy of which is attached to the bill herein, is issued to each member or co-operator, and is signed by said Public Clearing House by its president and secretary as fiscal agents for the League of Equity.

In order to carry on successfully the business of the complainant it is necessary that it have the use of the United States mails; but it has not had the use of the mails since November 13th, 1902, by reason of a 'fraud order' issued against it, dated November 10, 1902, by the Postmaster General and as a result the business has practically been stopped.

114 6. The plan or scheme of the League of Equity as set forth in the co-operator's agreement and in other literature issued by said complainant may be briefly stated as follows: Each person who becomes a member or co-operator pays three dollars as enrollment fee and agrees to pay the sum of one dollar per month for sixty months or five years, and also agrees to 'co-operate' by inducing other persons to become members or co-operators. The agreement states that in consideration of said enrollment fee "and the faithful compliance with the terms of this agreement hereinafter contained, the above named person shall receive his *pro rata* share of the total amount realized (less ten per cent.) when entitled to a realization as hereinafter provided, said realization to be in accordance with the following ordinary causation and realization table." Then follows a table showing that if the league grows at the rate of fifteen to one the total realization of the member at the end of five years will be at the same rate of increase, that is, he will receive nine hundred dollars for his sixty dollars paid in; if the growth is at the rate of ten to one he will receive six hundred dollars at the

end of five years, and so forth and so on down to a growth of only one to one, in which case he will receive only his money back, less the ten per cent. which is in each case deducted as the compensation of the complainant for its services and existence as fiscal agent, and less also the three dollars enrollment fee. Aside from this ten per cent. and the three dollars enrollment fee, the plan does not contemplate that complainant shall retain any of the money paid in by co-operators, or that any reserve fund shall be accumulated or invested, but that the money paid in each month shall be regularly paid out each month (less ten per cent.) to the so-called realizing co-
115 operators," *i. e.* those whose five years' period has expired and who have continued to make the requisite monthly payments during said five years. There is an additional provision that each co-operator who shall have secured three new members in any one year may realize or receive at the end of each year one fifth of the amount which he would be entitled to receive at the end of five years, assuming that the growth for the five years continued at the same rate; but the plan contemplates that in the end the member who secures new members and the one who does not shall receive the same amount.

7. All members who join the League of Equity during the same month constitute a class by themselves and are entitled to realize in all respects precisely the same amount and at the same time, excepting the member who obtains new co-operators may receive his realization in yearly installments, instead of in one lump at the end of the five years' period.

The only source of income to the league and the only funds to which its members can look for payment of the promised amount or any amount whatever, is the fund created each month by the payment of monthly dues, and the realization of any amount whatever by the new members is conditioned absolutely upon the constant acquisition of other new members and the new payments to be made by such new members. And what amount the members or co-operators will realize, as is stated by the league literature, depends entirely upon the ratio of growth of the league. No reserve fund is accumulated and no investments whatever are made of any portion of the money paid in by members.

In his report heretofore filed herein upon the matter of the rule on defendant to show cause why a restraining order should not issue against him, the master came to the conclusion that the
116 scheme or plan of the complainant was in effect a lottery and as such was not entitled to the use of the United States mails, and upon a fuller investigation and upon the testimony of both parties taken on a full hearing, the master is still of the same opinion. It seems to him that the plan contains all the elements of a lottery. There is the small payment to be made, the chance of a large prize or winning in return; there is uncertainty as to what amount that prize shall be, and there is also a certainty that there will be many blanks drawn. The amount of each member's realization is dependent not only upon the number of members which he himself may

be able to secure, but also on the number of members which all the other co-operators may be able to secure. As it is evidently impossible for him to know how many he may himself secure, it is *a fortiori* impossible for him to know how many any or all of his fellow co-operators will secure; nor can any one predict how many of a given class will lapse or drop out and thus increase the amount to be realized by the remaining members.

It is strongly argued on the part of the complainant that the scheme is innocuous and not fraudulent and not a plan to secure money by means of false or fraudulent representations, and it is pointed out and strongly emphasized that the literature of the league does not promise any definite amount or ratio of profit to its members; but while this may operate to remove one ground of objection, it merely emphasizes the lottery feature of the plan. It is held out as a possibility that the member may realize as high as fifteen dollars for every dollar invested by him, and it seems to the master that the scheme is as utterly a gambling one, as utterly dependent upon chance, as the question whether the roulette ball will fall on the 'red' or 'black' or on any specific number and
117 thus pay the gambler little or much or nothing according to his luck. The mere fact that the personnel of the prize drawer is not left to chance does not appear to remove the lottery feature. As pointed out in the report above referred to, the only difference between this and the ordinary lottery is that in the ordinary lottery the amount of the prizes is fixed in advance and the prize drawers are determined by lot, whereas in this plan the prize drawers are determined in advance and the amounts of the prizes are settled by lot or chance. There appears to be no difference in principle. The plan of the complainant may be briefly described as a plan for securing money from a constantly increasing large number for the benefit of a constantly increasing smaller number, with an absolute certainty that when the enterprise reaches an end for any reason the large number will lose every dollar they have put into it, and in the meantime the smaller number will have realized such amounts as may have resulted from the growth of the larger number; but no one can predict what that growth will be.

8. It is perfectly evident that to enable any given set of co-operators to receive any large return for the amount paid by them, for instance five-fold, it will be necessary that there should be a five-fold growth in the league, and that when the league has so grown five-fold it will be necessary, in order for the last number to receive an equally large return, that the growth be again five fold, and so on *ad infinitum* with the certainty that the end must come some time, and that when the end does come substantially all who have joined and paid their money during the last four years of existence of the league will lose absolutely all that they have paid in.

118 9. The master is of opinion from the evidence that the Public Clearing House through its officers, Davis and Baxman, and its predecessor the board of managers, consisting of the same persons, have dealt fairly and honestly in respect to the col-

lection and distribution of the funds collected by them, and further that they have not been guilty of making false or fraudulent misrepresentations in order to induce persons to become members of the league, but that full opportunity has been given for all persons to become fully conversant with the details and workings of the league's system.

As to the plan or scheme itself, in the master's opinion it may be characterized as *malum prohibitum* rather than as *malum in se*.

10. The question as to the constitutionality of section- 3929 and 4041 of the Revised Statutes is raised, and it is claimed that they are unconstitutional in that they give to the Postmaster General the right to deprive citizens of their property without due process of law.

It seems to the master that this question has been passed upon at least inferentially, by the court in each of the many cases in which the courts have refused to interfere with the action of the Postmaster General under the above statutes. None of these cases is overruled in the recent case of *American School of Magnetic Healing vs. McAnnulty*, decided by the United States Supreme Court November 17, 1902, which merely decided that in that case the Postmaster General had acted *outside* of his authority under those statutes.

11. It is evident that the power to determine what is and what is not to be allowed in the mails must be lodged somewhere; otherwise the mails might be filled with dangerous explosives,
119 corrosive acids, vile and obscene literature, matter infected with disease, and all sorts of injurious and improper articles.

If it be granted that the power must be lodged somewhere, then it follows that it must include the power to withhold from the addressee such injurious and dangerous articles, for if it be true that a letter deposited in the mails becomes *ipso facto* the property of the addressee, as the court seems to hold in the case above cited, then it is equally true of a package of dynamite, fulminate of mercury, or corrosive acid; and if such a package must be carried to its destination as addressed, the safety and efficiency of the mail service will be utterly destroyed. That the court did not mean to carry its dictum to this extent appears evident from the concluding sentence of the opinion, which is as follows:

"In overruling the demurrer we do not mean to preclude the defendant" (postmaster) "from showing on the trial if he can, that the business of complainants as in fact conducted amounts to a violation of the statutes as herein construed."

If the statutes are not constitutional and hence do not give the Postmaster General the right to stop the mail, it is difficult to see what difference it can make what the nature of the business of complainant is.

12. It was pointed out by the complainant's counsel that the fraud order might work injustice by stopping perfectly legal matter, "as for instance a dinner invitation." This is true, and so might a harmless letter or other innocuous substance be included in the

same package with dynamite, yet no one could claim that
120 therefore both must be carried. With as much reason might a citizen who carried on the double occupation of a burglar by night and an honest merchant by day complain that his imprisonment for burglary prevented him from carrying on his innocent occupation as merchant.

13. The evidence showed that in this case the complainant had a full hearing before the Assistant Attorney General for the Post Office Department, whose duty is especially to act in such matters as this, and had an opportunity to present its reasons why the fraud order should not issue; and further showed not only that the latter official's report with the evidence was transmitted to and examined by the Postmaster General, but that the Postmaster General granted to the president of complainant the privilege of a personal interview on the same subject before acting in the matter and issuing the fraud order in question.

14. There being no decision of the courts holding that where the Postmaster General has acted under the statutes referred to in a matter clearly within the scope of those statutes the courts may interfere with his action; but many to the contrary effect; and it appearing to the master not only that the matter at issue herein was clearly within the scope of those statutes, but also that the issuing of the fraud order in question was fully justified by the facts, the master respectfully recommends that the injunction prayed for in the bill be denied.

Respectfully submitted,

WILLIAM M. BOOTH,
Master in Chancery of said Court.

Jan. 6, 1903, master's fees for hearing and report, including stenographer's charges, $475.00.

121 The draft of the foregoing report as originally prepared was presented to counsel, and thereupon, on January 5th, 1903, twenty six objections were filed to the said draft by the complainant's counsel, and the master sustained certain of said objections, numbered three (3) four (4) seven (7) and nine (9) and modified his report accordingly and overruled the remainder of said objections; and the master files the said objections herewith and attached hereto.

WILLIAM M. BOOTH,
Master in Chancery of said Court.

Jan. 6, 1903.

122 In the United States Circuit Court of the Northern District of Illinois, Northern Division. In Chancery.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster. } No. 26538.

Objections taken by the above-named complainant to the report of Wm. M. Booth, master in chancery of this court, to whom this cause stands referred, to take the proof and report same, together with his conclusions thereon of law and fact, to the court.

First. That the said master erred in finding that it was provided in the League of Eligibles' certificate "that the certificate became matured or realized upon the contingency of marriage, provided that such marriage did not occur within one year from the time when they joined the league." The master should have found that the certificates became matured or realized upon the contingency of marriage provided that if such marriage occurred within one year from the time when they joined the league the certificate would not mature until the end of the year.

[Written across the face:] Overruled.

Second. For that said master erred in finding that the aforesaid certificate had a fixed realization value of $500. He should have found said certificate had a realization value not to exceed $500, &c.

[Written across the face:] Overruled.

Third. For that said master erred in finding in the second paragraph of his report that "when the first change was made there was about 13,000 members in the League of Eligibles." He should have found that there were about 1300 members.

[Written across the face:] Sustained.

Fourth. For that said master erred in finding in the third paragraph in his said report that there had been collected from about 17,784 members a total of $137,390.66 out of which the board of managers had taken about $36,000 for their expenses. The master should have found that there had been collected from about 13,784 members, &c. out of which amount the board of managers and the co-workers in the field had taken about $36,000.

[Written across the face:] Sustained.

Fifth. For that said master erred in finding "that over ten-thousand members had realized nothing, as there were never at any time, ten-thousand members in any of the leagues, and further that the evidence shows that those persons who were entitled to realize 1/5 annually just prior to November, 1902 would be entitled to realize.

[Written across the face:] Overruled.

Sixth. For that said master erred in the sixth paragraph of his report in finding, "then follows a table showing that if the league grows at the rate of 15 to 1, the total realization &c. and also if the growth is at the rate of 10 to 1, he will receive $600, &c." The master should have found that then follows a table showing that if the league grows at the rate of 15 to 1 (for five years) the total realization &c. and if the rate of growth is 10 to 1 (for five years) he will receive $600, &c.

[Written across the face:] Overruled.

Seventh. For that said master erred in the 7th paragraph of his report in finding "and the realization of any amount whatever by the members is conditioned absolutely upon the acquisition of new members and the new payments to be made by such new members." The evidence shows that the realization is dependent upon what is paid by the co-operator in the league at the time the realizing co-operator is entitled to his or her realization.

[Written across the face:] Sustained.

123 Eighth. For that said master erred in finding in said section "that the said plan contains all the elements of a lottery, there is the small payments to be made, the chance of a large prize or winning in return; there is uncertainty as to what amount that prize will be, *and there is a certainty that there will be many blanks drawn.*" The said finding is contrary to the evidence and the weight of evidence and also because there is no evidence that there will be any blanks drawn whatsoever.

[Written across the face:] Overruled.

Ninth. For that said master erred in finding in said paragraph "that each member's realization is dependent &c." He should have found the amount of each member's realization &c.

[Written across the face:] Sustained.

Tenth. For that said master erred in finding that because the literature of the league does not promise any definite amount or ratio of profit to its members, it therefore emphasizes the lottery feature of the plan."

[Written across the face:] Overruled.

Eleventh. For that said master erred in finding in said seventh paragraph of his said report that the scheme is as utterly a gambling one, as utterly dependent upon chance, as the question whether a roulette ball will fall on the 'red' or 'black' or any specific number and thus pay the gambler little or much or nothing according to his luck. The mere fact that the personnel of the prize drawer is not left to chance does not appear to remove the lottery feature.

[Written across the face:] Overruled.

Twelfth. For that said master erred in finding in said seventh paragraph of his said report "that the only difference between this

and the ordinary lottery is that in the ordinary lottery the amount of the prize is fixed in advance and the prize drawers are determined by lot, whereas in this plan, the prize drawers are determined in advance and the amounts of the prizes are settled by lot or chance." There appears to be no difference in principle.

[Written across the face:] Overruled.

Thirteenth. For that said master erred in finding in said seventh paragraph of his said report that it is an absolute certainty that when the enterprize reaches an end for any reason, a large number will lose every dollar they have put into it.

[Written across the face:] Overruled.

Fourteenth. For that said master erred in finding in the eighth paragraph of the said report that there is a certainty that the end must come sometime and that when the end does come, substantially all who have joined and paid their money during the last four years of the existence of the league will lose absolutely all they have paid in.

[Written across the face:] Overruled.

Fifteenth. For that said master erred in finding in the ninth paragraph of his said report that the said plan or scheme may be characterized as *malum prohibitum*.

[Written across the face:] Overruled.

Sixteenth. For that said master erred in finding in the tenth paragraph of his said report that the recent case of The American School of Magnetic Healing *vs.* McAnnulty, did not overrule the decisions of the courts in prior cases, but that it merely decided that in that case the Postmaster General acted outside of his authority under those statutes.

[Written across the face:] Overruled.

Seventeenth. For that said master erred in all of his findings contained in the thirteenth paragraph of his said report.

[Written across the face:] Overruled.

Eigtheenth. For that said master erred in finding that there was no decision of the courts holding that where the Postmaster General has acted under the statutes referred to in the matter clearly within the scope of those statutes, the court may interfere with his action but many to the contrary effect.

[Written across the face:] Overruled.

Nineteenth. For that said master erred in finding in the fourteenth paragraph of his said report that the issuing of the fraud order in question was fully justified by the facts.

[Written across the face:] Overruled.

Twentieth. For that said master erred in finding and recommending that the injunction prayed for in the bill be denied.

[Written across the face:] Overruled.

Twenty-first. For that said master erred in admitting into evidence on the hearing all answers to questions which were objected to by counsel for the complainant, over his said objection, all of which will appear in transcript of the evidence accompanying the said master's report.

[Written across the face:] Overruled.

124 Twenty-second. For that said master erred in admitting into evidence over the objection of complainant's counsel all papers, books and documents which were offered by the defendant.

[Written across the face:] Overruled.

Twenty-third. For that said master erred in admitting into evidence on the hearing thereof, the testimony, exhibits and documents attached to his report filed in the circuit court of the United States for the northern district of Illinois, on the 5th day of December, A. D. 1902, over the objection of counsel for the complainant.

[Written across the face:] Overruled.

Twenty-fourth. For that said master erred in finding that the plan and system of co-operation as applied by the League of Equity, clearing through the complainant, The Public Clearing House, is a lottery and has all the elements of a lottery because said evidence and the findings of the said master show that said plan and system do- not contain any of the elements of a lottery and is not in fact or in law a lottery in any legal sense of that term, nor does it contain any elements of chance set forth in the statutes referred to in the bill of complaint.

[Written across the face:] Overruled.

In all which particulars the said complainant objects to the said report and submits that the same ought to be varied and altered.

Respectfully submitted.

Dated Chicago January 5 1903.

D. I. SICKLESTEEL,
Solicitor for Complainant.

Additional Objections.

Twenty-fifth. For that said master erred in not finding that the statutes set out in the bill of complaint are unconstitutional and void.

[Written across the face:] Overruled.

Twenty-sixth. For that said master erred in excluding evidence

offered by the complainant tending to prove that G. A. F. Christiancy acting assistant attorney general for the Post Office Department had stated "that there is not any element of lottery or chance in complanant's plan."

[Written across the face:] Overruled.

D. I. SICKLESTEEL.

(Endorsed:) Filed Jan'y, 6, 1903. Marshall E. Sampsell, clerk.

125 *Abstract of Testimony under Stipulation.*

UNITED STATES OF AMERICA, *Northern District of Illinois,* } ss:

In the Circuit Court of the United States for the Northern District of Illinois.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster, etc. } 26538.

It is hereby stipulated and agreed by and between the parties hereto by their respective solicitors that the following is a full and complete abstract of the oral and documentary evidence adduced on behalf of the respective parties, before William M. Booth, master in chancery, and accompanying his report and filed therewith which was heard by the court on the final hearing hereof, so far as the said oral and documentary evidence are material or necessary to the hearing of the appeal in this cause in the Supreme Court of the United States.

And it is further stipulated that the clerk of this court may include a transcript thereof as part of the record in this cause on the said appeal.

D. I. SICKLESTEEL,
Solicitor for Complainant.
S. H. BETHEA, *U. S. Att'y,*
Solicitor for Defendant.

126 Abstract of the testimony taken before William M. Booth, Esq., master in chancery, in the above entitled cause on December 18th, 1902, and subsequent days upon the bill of complaint, answer, and replication pursuant to an order of reference hereinafter entered.

Appearances: D. I. Sicklesteel, Esq., representing the complainant; Solomon H. Bethea, Esq., Burton F. Peek, Esq., Robert W. Childs, Esq., representing the defendant.

C. FRANKLIN DAVIS, produced as a witness on behalf of the complainant, having been first duly sworn deposes as follows:

Direct examination.

By Mr. SICKLESTEEL:

My name is C. Franklin Davis. I am 36 years of age. I am president of the complainant company. Prior to becoming president of the complainant, I was president of the board of managers of the League of Educators. I have been president of the complainant since it was organized early in November, 1902, and was president of the board of managers of the League of Educators since its organization, about four years. I was associated with Mr. M. J. Baxman. He is now secretary and treasurer of the complainant and was secretary and treasurer of the board of managers, a copartnership.

The League of Educators were a large number of people scattered all over the United States and Canada who were co-operating with one another in a purely mutual way. The board of managers acted as agent or clearing house in behalf of the members. About October 22nd, 1902 there were between eight and nine thousand members of the League of Educators, and the board of managers had accumulated about thirty thousand mail list cards, peoples' addresses, etc. which were sold to the Public Clearing House about the time it was organized.

The complainant was organized to do a general brokerage and commission business, to collect and disburse money, to conduct an exchange and information bureau for the benefit of patrons. The object of the complainant was to eventually cover practically everything in the industrial line in a co-operative way. We had already gone into the industrial field and talked with several different laundry proprietors, preparing to place laundries on a co-operative basis; also to handle fruits and poultry from a co-operative standpoint; the Public Clearing House clearing these goods or this merchandise for the benefit of co-operators.

127 Prior to that time the board of managers of the League of Educators had cleared, sold or handled merchandise for patrons, consisting of sewing machinss, steam cookers, vapor baths, jewelry, furniture and household utensils.

The addresses of members and mail list cards were valuable to the complainant, inasmuch as they give the names of people and

their addresses, and we intended handling goods at the minimum of cost on commission and to act as a sort of purchasing agent for members in both buying and selling. The members would all co-operate both in buying and selling, and in this way we would have a very large clientage, and the commission, although small, would be large in the aggregate.

Prior to November 13th, 1902, the date of the fraud order complained of, the complainant had taken steps to carry out his brokerage and commission business. We intended as an information bureau to list goods of co-operators or members, which they had to exchange and bring about an exchange of these articles between members, and to give information of any kind as to prices on merchandise at a bargain for co-operators.

The League of Equity is a society consisting of about five thousand members, a great number of whom were members of the League of Educators. They bore the same relation to the Public Clearing House as the League of Educators bore to the board of managers prior to November 13th, 1902. The Public Clearing House had been receiving through the Post-Office Department at Chicago, mail matter consisting principally of applications for membership in the League of Equity (Witness here identified form of application set forth in bill of complaint, which was introduced in evidence.) These blanks were filled out with the name, occupation, etc. of the applicant. About five-thousand persons had signed these application blanks prior to November 13th, 1902. (Witness here identified the co-operators' agreement set forth in the bill of complaint which was admitted in evidence.)

The company had received a few orders for sewing machines through the mail prior to November 13th, 1902. After the receipt of the application, the co-operators' agreement issued by the Public Clearing House as fiscal agent for the League of Equity, was sent out to each applicant. The co-operators' agreement was filled out with the name of the applicant and signed by myself as president, by Martin J. Baxman as secretary, under the corporate seal of the Public Clearing House.

The co-operators of the League of Equity had no other agreement or documents other than the application and the co-operators' agreement set forth in the bill, and they were to comply with the requirements of these two documents. There was another circular issued called "Is it a get-rich-quick scheme?" Which circular was identified, offered and received in evidence, and is attached hereto, marked Complainant's Exhibit 4. These documents and form 1 set forth in the answer contain a statement of the plan and system of co-operation as applied by the League of Equity, clearing through the Public Clearing House, and the members are to realize in strict accordance therewith.

About three or four-hundred persons had made application for the co-operators' agreement who had not been members of the League of Educators. The other printed literature entitled "A revelation to the people," and circulars theretofore issued by the

board of managers of the League of Educators which was on hand at the time of the organization of the complainant was sold to the janitor of the building, and weighed about 950 pounds, and not a piece of it has been circulated by the Public Clearing House.

In order to successfully carry on the business of the Public Clearing House, it is necessary that it use the United States mail-, and it cannot be carried on successfully without the use of them, and it has not had the use of the mail- since November 13th, 1902. The effect of the deprivation or denial of the use of the mails on the business was to practically stop it, incurring financial loss. This loss would exceed in value the sum of two-thousand dollars.

128 The plan or system of co-operation of the League of Equity clearing through the Public Clearing House at the time the mail was interfered with, was that these five-thousand people who had become co-operators and had banded themselves together for the purpose of benefitting one another in a purely mutual way, and who had made application for the co-operator's agreement, and who had appointed the Public Clearing House to act as their agent in collecting and disbursing their money, and to buy and sell merchandise. It is simply a self-adjusting co-operative system, which is controlled by the will of the co-operators, all depending upon their exertions as to the realization which each one would receive. The complainant company did not promise or agree to pay the co-operators any specified amount. The consideration on the part of the co-operator entering into the league and reaping its benefit is that he will co-operate with the rest of the members in securing new co-operators and that places it within his power to make his own certificate very valuable and also places it within the power of all of them to make their own certificates good and valuable.

In my opinion the plan can finance out because there is no liability or obligation to be met until the amount of the willingness of the co-operators is ascertained by the payment of $1.00 per month. There is not a shadow of liability until every dollar is at the clearing house that the co-operators are to pay each month. This $1.00 a month is sent in by each co-operator and when the amount is all in, it is divided *pro-rata* among those for whom the monthly payment is made, and their names appear in the official organ of the League of Equity, "The Vigilant," each month. The money which is paid each month is paid for the persons specified in The Vigilant that month, and they are specified because they have co-operated the required length of time, or secured new co-operators and have paid their monthly payments of $1.00 during their period of co-operation.

The agreement does not specify any specific amount which the co-operators are to receive, because the amount each one is to receive depends upon the amount of co-operative service or work of all co-operators in securing new co-operators. There is no amount to be realized except that which is contributed by the members, who all contribute alike and have the same agreement, and are upon the same basis.

The last man will not be defrauded under this system because in

purely mutual co-operation there can be no such thing as the last man for the reason that if there is a last man there will be no else to co-operate with him, and hence he would not be entitled to a realization. In purely mutual co-operation if anybody is last we would all have to be last. The difference between what a co-operator pays and what he receive is actual work or service performed in securing new co-operators, which is not limited to his own service, but to the service of all. The service, work and ability goes before he realizes. There could be no realization otherwise. There are no classes in the league. All are on the same equal and *pro-rata* basis. The time which the co-operator realizes is reckoned from the month in which he joins and not the actual date in the month, and the clearings or realizations are made once a month. The realization does not depend upon the growth produced by the individual, but upon his work and service, combined with the work and service of all the co-operators. I do not see how there is a chance that the league may not secure new co-operators because self-interest compels every one who joins the league to co-operate with others.

Each dollar that is received each month less 10 % is divided equally and *pro-rata* among those whose names appear in The Vigilant for that month. The members of the League of Equity who were members of the League of Educators begin to co-operate from the date of their old agreement. This was because of their co-operative service and work which was valuable in building up the organization, and was very valuable to the new organization. In building up the new organization there would not be anything paid in until a co-operator was entitled to a realization by securing new co-operators and therefore their services in building up the old organization were valuable to the new.

129 The complainant did not receive any notice from the department prior to the entry of the fraud order complained of and it was not represented before the department prior to the entry of the order.

September 12th, 1902 Post-office Inspectors Messrs. Walter Mayer, Haze Morgan and E. M. Fulton came to the office of the board of managers of the League of Educators. Mr. Morgan presented a letter signed in blank by James N. Tyner and requested to inspect the books, papers and documents of the board of managers. I told them I would be very glad to have them examine everything and would afford them every facility. They proceeded to make an examination which occupied parts of three days. They looked up receipts and disbursements. I furnished them with copies of literature used. We use the Youman & Erbe card system. Each co-operator has a card which contains his name and address, date of his agreement and when he pays his monthly share; on the first of each month he is debited with the amount he has to pay, and when it is paid he is credited. It also shows the number of the co-operator he secures. The inspectors examined these cards. There was not any book, document, paper, check book, or voucher asked for by these different post-office inspectors which either Mr. Baxman or I

did not deliver to them. The figures which they took from our records were estimated, and I said to Mr. Morgan that everything was wide open and we would like to have him make a very careful and minute examination of everything, to which he replied, he had made over 100 such examinations and thought he knew what he was doing, and that 95 per cent. of it would go into the waste basket. When they left they said we had afforded them every facility in making the examination.

About September 22nd., 1902 we received a stock memoradum from the department which they sent out, alleging fraud, false pretense, etc. requesting us to show cause why we should not be denied the use of the mails. They gave us two and one-half days to prepare an answer and go to Washington, and our attorney telegraphed for an extension of time, and Mr. Christiancy wired back, "Time extended to October 7th, mail held according to custom pending hearing." Mr. Christiancy is the acting assistant attorney general for the Post-Office Department. I then went to Washington and I first saw Mr. Morgan. When I went into the office, he said, "Mr. Davis, you have come in early. Your hearing does not come up until October 7th." I told him I knew that, but it would never do to keep the mail tied up. This was on September 29th. He told me that Mr. Christiancy was in New York and would not be back for a day or two.

On October 2nd. I had a hearing before Mr. Christiancy and Mr. Morgan and I was represented by Mr. Harrison J. Barrett, who is a nephew of James N. Tyner, Assistant Attorney General for the Post-Office Department. Mr. Barrett is an attorney located at Baltimore and Washington, and had been connected with the department for a number of years as assistant to his uncle.

About a year and a half before this we had sent to the Post-Office Department some literature issued by the board of managers of the League of Educators. At the hearing Mr. Morgan produced a report which he had made in Mr. Christiancy's office and proceeded to read and argue from it and took the position of prosecutor. There was no decision arrived at at that time. On October 5th, we again appeared before Mr. Morgan and Mr. Christiancy. Mr. Barrett pleaded with Mr. Christiancy not to take the responsibility of passing upon the case but to send it up to the Attorney General's office for an opinion. Mr. Christiancy refused to do so. Mr. Barrett replied that he was doing so in many cases and was doing so right along, and asked him to do so in this case. I read Mr. Morgan's report to the department and he was present when I was reading it. After I had read it I said to him, "Morgan, I thought you were sent out to get the truth?" He said, "What's the matter with it?" I said, "Morgan," and I looked him square in the eye, "you know that report is false from beginning to end." He said in these words, "I always show up the blackest side." I asked him to revise his report and he said anything that was not correct would be cut out at the hearing, but it was not.

130 There was also a short report there filed by Mr. Fulton and Mr. Mayer. There was no decision arrived at at that hearing. I then returned to Chicago and left the matter in Mr. Barrett's hands, who prepared a memorandum and submitted it to Mr. Christiancy, setting forth that the league and its system of co-operation was not in violation of the statutes as alleged, and told why.

I returned to Washington, arriving on Monday the 13th of October. I went up to Postmaster General Payne's office. I had instructions before leaving to go over the heads of the subordinates and see either Mr. Payne or Mr. Tyner. I did not see Mr. Payne that week as he was not in Washington. I did not see My Tyner, and was told by Mr. Barrett, his nephew that he was sick and out of town, and that Mr. Christiancy handled these matters anyway.

On the morning of October 20th. at about half past ten I had a conversation with Mr. Payne, sitting on a couch in an office adjoining his private office. I asked him to hear the case, and he said, "I never hear any of these cases; you will have to see Mr. Christiancy." I told him I had seen Mr. Christiancy, and insisted upon him hearing the case, stating that Mr. Christiancy was prejudiced. He said, "I never hear any of these cases, and you will have to take the matter up with Mr. Christiancy, but I will tell you what I will do. I will speak with Mr. Christiancy about it, and you can come here this afternoon." I returned in the afternoon. Mr. Christiancy said, "Haven't you an appointment with Mr. Payne this afternoon?" I said, "Yes, he said that I might come in this afternoon. He said, "He is in there now waiting for you; you had better go in and see him." I thought that was peculiar, inasmuch as they had been trying to keep me from seeing either Mr. Payne or Mr. Tyner, so I stated that it was getting late, and that we had better put the matter off until tomorrow. Mr. Christiancy said, "All right, you come in here tomorrow and we will go in and see Mr. Payne." This was on the 21st of October, 1902. There were no papers, documents or plan of the league presented to the Postmaster General on the 20th or 21st of October, nor was there any discussion between Mr. Christiancy, Mr. Payne and myself in regard to the league's plan of business.

I returned the next day and Mr. Christiancy and I went into see Mr. Payne. Mr. Christiancy stated to Mr. Payne, "I was just telling Mr. Davis that you never hear any of these cases, and that it was an unusual circumstance for you to admit anyone to come before you, but I have a proposition to make, and I have brought Mr. Davis with me." He then asked me about how much mail there was held in Chicago, and I stated that the mail had been held since September 24th, without a fraud order having been issued. At that time I would estimate there was about fifteen-thousand dollars in the mail at Chicago. Mr. Christiancy stated that he had decided to recommend that the mail be released at Chicago so that we could get the money, we to agree to issue no more certificates or make no more calls, and he would order an information filed. I asked Mr. Christiancy what would be done with that money, and he said,

"You know best about that." We then discussed the length of time it would take to get a judicial determination and I told them that I did not think it would be right for me to agree to such a proposition for the reason that it would be very unfair to all the co-operators, inasmuch as they might not be able to continue to co-operate for a long time. Mr. Payne then said to Mr. Christiancy, "It seems, Mr. Christiancy, that Mr. Davis does not want to accept your proposition." I stated that I did not think it would be right for me to do so, and that the co-operators would blame me for making any such agreement. Mr. Payne then said, "Mr. Davis, unless you are willing to accept Mr. Christiancy's proposition, I should think the fraud order should issue." There was no other discussion than this at this time relative to the league and its system. I stated to Mr. Payne, "You are not a man who will issue an order that will deprive nearly ten-thousand people of their rights, liberties and freedom of the will, which is guaranteed to them by the Constitution
131 of the United States," to which he did not reply. I further discussed the matter with Mr. Christiancy and told him that I would communicate by wire with my associates, which I did. I received a reply about noon the next day, and showed it to Mr. Christiancy, in which my associates had instructed me to accept his proposition as a last resort. He then stated that the order had already been issued and sent to Chicago, and that we had the postmaster in a peculiar position up there, and that the order must be sent in time to reach Chicago before the hearing on a bill which had been filed against the postmaster at Chicago. I tried to get him to withdraw the order and accept his proposition, but he refused. I never had any conversation with any of the officials of the department relative to the issue of the fraud order against the Public Clearing House. Its mail was stopped about the 13th of November, 1902, and this was the first intimation that I had that a fraud order had been issued. I am well acquainted with several hundred members of the League of Equity. They are bankers, lawyers, manufacturers, contractors, doctors, and leading business men in all walks of life.

I had made a study of the *por*position of co-operation as applied by the league for about ten years, and have read the works of Robert Owen, the founder of the Roachdale system, and also the works of George Jacob Holyoke, the great English co-operator, also Lawrence Grundlin, and many others.

In answer to inquiries for application for membership in the League of Educators, we sent out a uniform letter which was also used in answer to inquiries made relative to the League of Equity, and the business of the Public Clearing House, copy of which letter was offered in evidence, marked Complainant's Exhibit 5, and is in words and figures following:

SEPTEMBER 24TH, 1901.

Mr. John Smith, Chicago, Ill.

DEAR SIR: Your inquiry is at hand and you will find literature herewith which if carefully read will give you a good understand-

ing of the value of purely mutual co-operation, or what people can accomplish by co-operating with one another in a purely mutual way.

Your application and support are not desired until you thoroughly understand the plan, so if there is anything not clear to you, will be pleased to have you call for interview, or will answer any questions by mail.

Fraternally yours, —— ——."

A sample copy of this letter was given to the inspectors at the time they were at the office, and I told them it was a uniform response to inquiries.

Cross examination.

By Mr. CHILDS:

I have been connected with the League of Educators and Equity ever since their organizations.

Recess.

TWO O'CLOCK P. M.

Direct examination (resumed).

By Mr. SICKLESTEEL:

132 After the issue of the fraud order on October 22nd, 1902, the Public Clearing House was organized into a corporation, because the mail having been held up we could not continue this co-operative work and we had been contemplating for some time improvements in the system of making the amount even the $1.00 each month instead of $1.04 1/6. This $1.00 a month would be the amount that each one would pay and the co-operators would receive whatever the earning power was by reason of the co-operative service of the entire membership. In the League of Educators the realization was limited to $500. and if they had an increase of a fifteen-fold ratio in five years their realization would be whatever was produced by a *pro rata* call on all of the co-operators. If the growth was a fifteen-fold ratio for that period of time the cost per month would be approximately 55 cents, whereas in the League of Equity they would simply pay $1.00 per month and in five years they would pay $60., and then if they had a fifteen-fold growth in five years the realization would be up to $900. instead of $500. in the old plan. We had contemplated that change inasmuch as these letters had all been sent back marked "fraudulent" and the board of managers of the league were deprived the use of the mails. The only way that the co-operative work could be continued would be to organize this Public Clearing House and go out after new co-operators, and also take in those who wish to continue to co-operate who had been co-operators in the League of Educators. It also gave us an opportunity to change the plan at that time and make it an improvement and much plainer to the average person. The members

of the League of Eligibles and League of Educators who joined the League of Equity would be entitled to a realization exactly in accordance with the co-operators' agreement set out in bill. Their time of co-operation dating from the date of their certificate in the former organizations.

Cross-examination (continued).

By Mr. CHILDS:

The League of Educators were organized something over two years ago. There was another organization existing prior thereto which had what we called at that time a marriage contingency and also a time contingency. It had the same principle of co-operation. The first was organized in September 1898 and had the same principle of co-operation. Br. Baxman and myself were the organizers. I presume some of the members of the League of Eligibles are members of the League of Equity. None of the funds received by the Public Clearing House are being paid to those who joined the League of Eligibles, and the League of Eligibles never had any claims on the Public Clearing House. I was one of the members of the board of managers of the League of Educators, when it was organized and was appointed by each of the co-operators over his own signature to act as agent or clearing-house in his behalf. When we first organized the League of Educators a letter was sent out to all the co-operators stating to them that a number of the leading co-operators who were educators had suggested that the word "Educators" be substituted for the word "Eligibles" inasmuch as the organization was advocating a new economic principle and it was thought that name would be much more appropriate, and a letter was sent out to all the co-operators asking their opinion and there was not a dissenting voice. My associates and I sent out the letters.

The League of Educators was a voluntary association of people who were co-operating in a purely mutual way and consisted of between eight and nine thousand of the best people scattered throughout the United States and Canada, who were co-operating with one another in this purely mutual way and had appointed the board of managers to act as agent or clearing-house in their behalf. They were appointed by application blanks sent out by the board of managers. The incorporators of the Public Clearing House changed the name from the League of Educators to the League of Equity. I was one of the incorporators. The Public Clearing House was incorporated early in November as an entirely new organization on a much broader scope so as to take in all kinds of industrial co-operative enterprises, such as laundry and bakery retail stores. The League of Equity could not operate without the Public Clearing House unless the co-operators got together and appointed a board to act for them.

133 The consideration for the sale of the cards, etc. from the board of managers to the Public Clearing House was $2500, which went to the board of managers who retained it, and it had

nothing to do with the members of the League of Educators. That property belonged to the board of managers, which they had paid for in their own money. The co-operators of the League of Educators never paid one penny for any of those cards, desks, furniture or anything of that description in the office. The Public Clearing House is just what the name implies, to be a public clearing house for people who wish to co-operate in a purely mutual way and to apply that co-operation in the way of buying, selling and trading with one another through the Public Clearing House at the minimum of cost.

A plan had been prepared whereby we intended to do a laundry business so that these co-operators could get new co-operators on the same plan that they would in this co-operative system and all these new co-operators had to do was to agree to have their laundry work done at this co-operative laundry. We had not done any business but we had talked with several hundred people in this city in regard to it, and we were arranging to handle fruits and poultry that might be shipped in from all parts of the country, and we had taken the matter up with Mr. Woodin and Mr. Thompson and others who had been in the fruit commission business, and we were preparing to establish a house on South Water street as soon as the fruit season opened up to clear fruits, vegetables, poultry, etc. at the minimum of cost.

We had drawn up plans and were negotiating with men who were experts in various lines of industry and explained to them the plan and how this same co-operative principle could be applied to anything in the industrial line. We did not actually hire any men. I can give you the names and addresses of several hundred men in the city whom had entered into negotiations with us. We had talked with Mr. C. D. Woodin of Benton Harbor, Mich. and Mr. J. W. Thompson who were commission men and co-operators and we had prepared a list for exchanging goods of all kinds and you will see a notice of it mentioned in The Vigilant. The Public Clearing House had assumed the functions which had been previously held by the board of managers and were acting as agents for the co-operators only, not promising anything beyond that, and they did not assume any liabilities. Their duties were the same, only of a more extensive nature.

There is no scheme about the League of Equity or the League of Educators. It is a self-adjusting co-operative plan which is controlled by the will of the co-operators, and the underlying principles are the same because they are both a purely mutual system. Very few payments were received after October 22nd to November 13th. Application blanks have been sent out to the League of Educators so that they could qualify for the League of Equity, and these co-operators would have to qualify before they could pay their dues. After the receipt of the applications for the co-operator's agreement the agreement was sent together with a statement of the amount due. Every one of the members of the League of Educators realized exactly in accordance with the contents of their certificate of

membership. The Vigilant used to be published by the board of managers of the League of Educators, and was the official organ of the co-operators. A large number of them all over the country expressed their views through that medium. The editor was Mr. Morgan, not "Haze Morgan," and my views are expressed therein from time to time as well as all the rest of the co-operators. The printing of it is paid for by the co-operators, and the checks are signed by Mr. Baxman and myself in behalf of the co-operators, the money coming from the co-operators. We receive a ten per cent. commission as agent, and also a small portion of the enrollment fee of $3.00, and the running expenses are paid out of this commission and enrollment fee. We are entitled to use the commission and our part of the membership fee. The articles appearing in The Vigilant from the co-operators are signed by the co-operators who send
134 them in, and advocate the cause of purely mutual co-operation.

I stated this morning that the denial of the use of the mails to the Public Clearing House was practically to stop its business because all the letters are stamped fraudulent and sent back after the co-operators had the second time attempted to reach their clearing house. We received very little mail and what we did receive was received through The Vigilant. We authorized the co-operators to address The Vigilant. I stated that the co-operators would have lost about three hundred-thousand dollars if the movement had been stopped and they could not continue to co-operate because they would have been deprived of their rights and privileges to co-operate with each other in a purely mutual way, and we would be deprived of our rights and privileges guaranteed to us by the Constitution of the United States. They lost the three hundred-thousand dollars because they had been deprived of their privileges of co-operating, and in consequence they could not make their own certificates good and valuable, which they had the power to do.

I stated that the Public Clearing House assumes no liabilities nor did the board of managers of the League of Educators. These people were co-operating with one another in a purely mutual way and were to receive whatever the earning power was by reason of the co-operative service or work of all the co-operators in securing new co-operators, and if they were deprived of that privilege in continuing to co-operate in that way, why then they would necessarily have to lose the time that they had co-operated.

The co-operators have not lost anything and will not because this plan of purely mutual co-operation will be upheld by the courts. I said they would have lost about three hundred-thousand dollars provided they could not continue to co-operate and make their own certificates good and valuable, as they had the power to do if they were let alone.

Before the first fraud order was issued there were between eight and nine-thousand active co-operators. If the business is stopped by the Post-Office authorities, then there are certainly no funds in hand; the literature and evidence shows that. The clearing is made each month and the entire amount disbursed less a small

commission. The underlying principles of the plan of the League of Educators, the Public Clearing House, and the League of Equity are the same. The change is only in the detail so far as these organizations are concerned. I did not make statement that a man is bound to secure new co-operators in order to realize. There is not any question but what it can finance out and is the only organization in the United States to-day that can, because ability goes before liability. There is no amount to be realized beyond what the co-operators contribute each month and that is divided *pro-rata* among those who are entitled to a realization that month.

The organization was started to teach people that very thing, that there is absolutely no such thing as chance, risk or loss in it, and all are on the same equal and *pro-rata* basis, and the difference between what each co-operator receives and the amount that he pays in each month for his term of co-operation is actual service performed by all the co-operators. Individualism is not co-operation, and they realize whatever the earning power of the organization is by reason of their work or service which must actually be performed before the realization. If that service or work has not been performed by the whole membership, there would be no gain. It would be simply a savings institution. We have printed the statement in our literature to the effect that no less than 8 to 1 had been realized in the past, and that statement is true. We never made the statement that 8 to 1 would be a perpetual realization. An 8 to 1 growth is a much smaller growth than any other organization; even the smaller fraternal organizations grow faster than 8 to 1 in five years. The agreement does not specify the amount to be received by the co-operators, but calls for whatever amount the co-operators make it. It is entirely within their own power and exertions. The amount may be large or small, just as they make it by their work or
135 co-operative service in securing new co-operators. The realization of one co-operator depends upon the co-operative service of all. If a co-operator gets three new members he is entitled to one-fifth of what is produced by the co-operative service of all at the end of the year. That is stated right in the agreement.

We sent some of the literature of the League of Educators and the League of Eligibles to the department prior to October 2nd. I never had a hearing of any kind before the Postmaster General. I talked with him but I did not explain the plan of the League of Educators or the League of Equity to him. He told me he never heard any of these cases and that I would have to see Mr. Christiancy. I did not attempt to explain the plan to the Postmaster General, nor did he say to me that he could not follow me or understand what I was talking about, as any man that can understand the English language could understand what I was talking about if he had his mind disciplined for a minute along co-operative lines. None of the literature had been placed in the hands of the Postmaster General to my knowledge, nor had I communicated with him concerning the matter. In the hearing before Mr. Christiancy I believe Mr. Morgan had some of the literature and Mr. Christiancy

could see it, but this was not to my knowledge sent to the Postmaster General.

The co-operator's agreements were being replaced with the co-operator's agreement of the League of Equity. Each co-operator in the League of Educators was simply to co-operate in accordance with the contents of the co-operators' agreement of the League of Equity. Referring to the co-operators in the League of Equity who were bankers, business men and prominent men, I will name, Wm. F. O'Donnell, contractor. He was present here a few minutes ago. I have a large list of letter heads here of bankers, manufacturers, doctors, written on their own letter heads. We have about eight-hundred of them in Chicago; men who have made a study of this co-operative principle. One is Dr. Rufus Bartlett, examiner for the Equitable Life; another, Dr. John Bohr, another Wm. S. Kirby, another Mr. H. G. Trine.

Mr. CHILDS: That's all right; that is sufficient.

The WITNESS: I would like to mention Mr. Thomas S. Quincy, adjuster for the Equitable Life, and insurance man; also Mr. James H. Putnam of the New York Life; Mr. Chas. J. Richey, an attorney, Mr. A. J. Jacker, patent attorney, Rev. N. J. Nyrop, Capt. P. D. O'Brien of the police force, Mr. John S. Kelly of the United States Agricultural Department, Bureau of Animal Industries; also Mr. Arthur A. Hugart, superintendent of schools, Porter county, Valparaiso, Ind., and Prof. Albert Jennings, one of the leading educators at Grand Rapids, Michigan; also Mr. Roger Morgan, the largest manufacturer of school supplies, tablets and paper supplies in the United States; also Mr. John Lucas, paint manufucturer at Philadelphia, Pa.; Jackson Cole of Newton, N. J. one of the leading eastern co-operators and a large merchant.

Mr. CHILDS: I think, your honor, that we have a general idea from the names he has given here.

The MASTER: Yes.

The WITNESS: I have a list here of a very large number that I would like to furnish, and the letter heads here of a lot in other occupations, manufacturers and professional men; business men in all walks of life. I would like to add the name of Mr. Fritz Fleer, general agent for the Union Casualty Insurance Company of St. Louis, Mo.

The MASTER: That will be sufficient.

The WITNESS: Also Mr. Chas. F. Johnson, general secretary Y. M. C. A., Des Moines, Iowa.

You will find the contents of Complainant's Exhibit 5 running all through the literature. I think to most every inquiry that has ever been made that that letter went in reply, and whenever there was an inquiry I had the stenographer write one of these letters and send it out.

136 Redirect examination.

By Mr. SICKLESTEEL:

We received fifty cents a year subscription fee for The Vigilant. This was received from the co-operators and about pays the cost of its publication.

The laundry men I referred to yesterday, one was Mr. C. W. Shamek, 680 Wells street, Chicago, Ill., also Mr. W. T. Monroe, one of the proprietors of the Chicago Laundry Company, 4239–4241 Cottage Grove Ave., also Mr. A. C. Eddy of the Washington laundry, 403–405 West Madison St. There are also a large number of laundry men who came in response to letters written to them and talked about starting a co-operative laundry, applying this purely mutual system as is applied in the League of Equity.

Counsel here offered to prove by Mr. Davis the allegations made in the bill of complaint on page 14, that Mr. Christiancy said that there was not any element of lottery or chance in the said plan, etc. to which question counsel for the defendant objected, which objection was sustained by the master.

137 JOHN J. RUNCK, produced as a witness on behalf of the complainant, being first duly sworn testifies as follows:

Direct examination.

By Mr. SICKLESTEEL:

My name is John J. Runck. I conduct a tailoring establishment at Sheldon, Illinois. I am a member of the League of Equity and had been a member of the League of Educators, and I have made a study of the plan of co-operation of both and have explained the plan to about two-hundred prospective co-operators in Sheldon, Illinois and vicinity. There are about two-hundred co-operators in that neighborhood. I am acquainted with all of them, who are mostly business men, doctors, superintendents of schools, editors and general merchants. The plan of the league as I understand it is that people band themselves together for the purpose of helping one another in a purely mutual way by the service of all, be it great or small.

My way of demonstrating the plan to the public is very simple and easily understood. Take as an illustration two brothers, William and Henry, who are going to co-operate through the league's system, and we will take it for granted that the league is making an average growth of 8 to 1. I give through these two brothers the two extremes so that you may understand what is meant by the average and how it is maintained, and how they receive their money. Take Henry as the inactive member or weaker brother, and William as the active member. William being ambitious, wishes to benefit himself at as early a date as possible according to his certificate. Both are in for a term of five years. William secures three members or payers for the league which makes a paying power of $36. Understand that before these members co-operate it was always understood

among co-operators what you are doing for the league, and then the league as a whole, what it does for you, and in this case as suggested on the eight-fold ratio, at the end of their terms they would receive $480 apiece. William having his three members he realized one-fifth of this amount or $96. The second year he adds three members making a paying power of six or $72. The league in turn pays his second fifth or $96. The third year he adds three more payers, making nine payers or $108. He gets his third fifth or $96. The fourth year he adds three more members or twelve payers for the league or $144. He now gets his fourth fifth or $96. The fifth year he adds his last three members, making a paying power for the league of fifteen or $180. He realizes his last fifth or $96. In each case he receives $96. less ten per cent., clearing house fee. His present membership is ended, yet the service he has gained for the league or the paying power he has established is not yet done. For the sixth year there is twelve of these payers still paying $144. to the league. In the seventh year there is still nine paying $108. In the eighth year there is still six paying $72.; and the ninth year, four years after William quit, his last three members which he put in during his term, paid their last $36. William has been the cause of a paying power established by the league covering a period of nine years of $900. For the time while he co-operates he receives $480. in five yearly installments.

We will now take up Henry, the other extreme. The first year he only gets one member, making a paying power of only $12. He would receive for one member one-twentieth or $24. less ten per cent. The second year he did not add any new members nor did he the third year, fourth year or fifth year, but his payer still pays for the league. At the end of the fifth year he realizes $456., making a total of $480. less ten per cent. William had established a paying power of $900 in the league. Henry established a paying power of only $60. The two together aggregate $960, and being two to realize, makes $480 apiece at the end of five years. William produced a 15 to 1 growth while Henry produced a one to one growth making a total of 16 or an average growth of 8 to 1 in five years. Eight times sixty makes $480, less ten per cent. which the clearing house gets. Thus you see so long as the majority of our members are willing to work and will produce a 15 to 1 growth we can easily maintain an 8 to 1 ratio. The rest may be ever so weak. It shows what the stronger brother becomes in this organization and assists the weaker, which is not known in any other organization. It gives the privilege to each and every man, woman or child who becomes a member to be assisted by another. Do what you can; if you cannot get three members a year and realize 1/5 of what the total would be, get two and realize 1/10. If you cannot get two, get one and realize 1/20th and so on all the way through. This realization is based on an 8 to 1 ratio. I can figure it out on any other; 15 to 1; 6 to 1; or 2 to 1. Had Henry been just as active as William in this illustration each and every member of the league could produce a paying power of $900 right

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along. Had William not been any stronger than Henry there would have been no growth established and there would not have been any money to pay out, than what the work they had produced, or dollar for dollar.

There is no chance for loss, risk or chance. These members that we illustrated are going through the league like every other member and it is what they do for the league and what the league as a whole does for them. The reason William can get $96 when he only produced a growth of $36, the difference between that has been established by former members, the same as he establishes it for members coming after. The object is to show the labor of the two extremes in the organization and what it means by a total growth upon which they realize. This is figured upon the basis that the league is maintaining, an 8 to 1 ratio rate of growth. It depends upon what the majority are doing.

Cross-examination.

By Mr. PEEK:

I can figure this on any other ratio. I took 8 to 1 because it is very convenient to show the two extremes. There are always two extremes to everything. I can take it on a 5 to 1 if you wish. I took 8 to 1 because it is convenient and I am used to it, to illustrate the two extremes of the organization, and because we have almost on an average been maintaining in the past an 8 to 1 ratio. I have been a member about six months, and I know what ratio has been maintained by the literature, viz: The Vigilant. I have read letters from some of my friends written to former members and they responded vouching for what had been stated in The Vigilant.

139 WILLIAM W. WALTER, a witness called on behalf of the complainant being first duly sworn testified as follows:

Direct examination.

By Mr. SICKLESTEEL:

My name is William W. Walter. I reside at Aurora, Ill. and have been a salesman practically all my life. I was a member of the League of Educators and am a member of the League of Equity. I joined the League of Educators in January last. I signed an application for the co-operator's agreement in the League of Equity and received the agreement and became a co-operator. I have made a study of the plan and system of co-operation as applied by both of them. Their underlying principles are the same. The technical part and so far as the amount paid in is a little different, consisting that in the plan of the League of Educators the amount was limited to $500. at an eight-fold ratio, which had been maintained up to the time we were stopped; $1.04⅛ on an average per month made the $500. Under the League of Equity plan we pay $1.00 per month the realizer to receive when his period of co-operation expires accord-

ing to the average growth made by the total membership. If that shows an average growth for the five years of 8 to 1 there necessarily would be $8.00 for $1.00, and if the growth was only 6 for 1, there must necessarily be $6.00 for $1.00 or any other figure. The League of Equity will finance out. By that I mean the organization would meet its obligations for the reason that by the co-operator's agreement it is agreed to pay each co-operator according to the amount of the growth made. If there is an 8 for 1 growth made, there will be 8 for 1 paid in to be paid out less ten per cent. If there is a 2 for 1 growth made there will be $2.00 paid in for $1.00. Consequently that will be the amount of the obligation of the agreement and so on down or up either way. It is self-adjusting.

In applying the plan to the growth there can be no such a thing as the organization using up the total population of the United States; it is impossible because members are continually coming out, and you never can get them all in; each month that you put in some there is also some to come out. On the supposition that one person starts a league admitting a one for one growth, I can show to the court how a ratio of 5 for 1 can be acquired, and also bring the organization to an end so that none of the co-operators would lose any money. Take the supposition that A. starts the league and is the first member himself, and in the second year he gets B. on January 1st. On January 1st. of the third year he gets C. On January 1st. of the following year he gets D. and on January 1st. of the fifth year he gets E.; therefore there not having been any person in the league to realize there will be no payments to be made; consequently on the last month of the 5th year there will be a call made for A. his agreement having matured: He would pay in $1.00 and also all the other four and they would receive $5.00 for $1.00. He also made a five for one growth. Now running the organization down we will say that in the sixth year B. is to realize and we will allow B. to get one member who is F. The organization consists of B. C. D. E. and F. Each of them pay $1.00 at the end of the sixth year; there is nobody to realize between A. and B. Consequently there would be 12 months again in which nobody would pay and there would be $5.00 paid for B. A. and B. made the growth; that is B. got some and A. got some. Now the average growth would be 2½; B. would pay $2.00 and get back $5.00 as per growth. C. would be the next to realize. He secures one member, G. for instance. Again there are five members in the league. C. comes to maturity. C. is to pay $3.00, the last $1.00 going to himself when he realizes. There *is* five members; A. B. and C. secured the members that are now in the league. The average growth made by these three is 1⅔. The money C. would receive would be $5.00:
140 He paid in $3.00; in other words he would get back 1⅔ as per growth made. The next member, D. would get H. to join. Again there would be 5 members in the league, and they would be each one paying $1.00 at the end of that year. D. would receive $5.00. A. B. C. and D. made this growth of five members that are now in the league, or 1¼ each, and D. would re-

ceive $5.00 for his $4.00 or $1¼. Now the next, E. the last of the five that was secured by A. realizes. A. B. C. D. and E. have each secured a member. E. secured I. Again there are five members in the league. E. has paid $5.00 and gets back $5.00 which is a 1 for 1 growth.

It is impossible in the league's plan for it to eventually work out so that there will be a last man because in the first place you can not get to the last man. If we suppose that in the league there are five persons who have joined in the one month, four of whom have secured three new co-operators each year during their five-years and one member does not secure any co-operators but realizes at the end of his fifth year the other four realize annually because they have secured new co-operators under the clause in the agreement they will all receive the same amount. And suppose that in the first year they were growing at an eight-fold ratio and after that at a fifteen-fold ratio for the other four years, the four would receive their first year's realization on an eight-fold ratio and the fifth man who realizes at the end of the five years would not realize a fifteen-fold ratio because the fifteen-fold ratio had not been maintained on an average. The average growth per year would be 13 2/5 and they would all receive 13 2/5.

Under the co-operator's agreement the co-operators will be paid for the labor performed by the total membership in the organization. If there is a great amount of labor performed there will be a great return; a small amount, a small return.

Suppose the league started with five-thousand members this month and grew at an eight-fold ratio for five years, the members not realizing anything until the end of their five years, we would need forty-thousand members who would contribute $1.00 apiece. They would not contribute any more because there would be no one to realize and when there is no one to realize there is no $1.00 to be paid as is provided in the second clause of the agreement, which reads, "The person named in this agreement agrees with the rest of the co-operators that each one shall pay to the fiscal agents of the League of Equity the sum of $1.00 per month, as his share to pay for the benefit of the co-operators realizing each month, said sum to be paid between the first and 25th of each month" and unless there was some person to realize there would be nothing to be contributed. If the members do not co-operate according to the agreement there would be no growth and the growth secured by the total membership makes their agreement valuable, and this depends upon the members themselves and nobody else.

The Public Clearing House does not agree to produce this growth. The Public Clearing House agrees only to disburse the money sent in by the members themselves. I am personally acquainted with about seven or eight hundred co-operators who reside in Aurora, Illinois and surrounding towns and counties. They are business men, manufacturers, doctors, engineers firemen, brakemen, mechanics of all kinds. I think there are co-operators from each craft known of as it takes an intelligent man to understand the plan, and

you cannot get anybody else. All these co-operators understand the plan. I have talked to most of them personally in regard to the league and as to what ratio they expect to realize, and they said they would realize, and understood it so, according to the growth made during their period of co-operation. None of them understand an absolute promise of eight to one.

141 The reason the growth of the league has been 8 for 1 is because of the great opportunity to get members, as we use up the available material if you can so call it, and get to the limit of the people who would join the league and it will automatically slack down of itself. The growth would drop down to 7 for 1, 6 for 1, 5 for 1, and so on. The more nearly we would use up our opportunities the slower we would grow until such time when there would be as many coming out of the league each month as there would be joining. It is automatic in itself and cannot grow so rapidly that it will use up practically the whole population and become unwieldy.

People are eligible to rejoin the league at the expiration of their five years. Our opportunities are very great as the average life is supposed to be forty years, so each co-operator could rejoin eight times and each co-operator is allowed two certificates, again doubling our opportunities.

I was present and heard Mr. Runck testify. The difference between the paying power of three members obtained in the first year when the league is growing at an eight-fold ratio and the realization of $96. by the co-operator comes from the members who are in the league prior to that time. They would leave the paying power behind them so to speak when they mature; just like the members which Mr. Runck showed on his chart would leave behind them a certain sum when they mature.

The league's plan is self-adjusting in every sense of the word. The co-operator's agreement is one of the plainest documents that I ever read and sets forth just what it will do and I can positively prove by figures that it will do it. I have examined it thoroughly, studied it carefully, and have recommended it to hundreds of my friends. The fact that it shares with the weaker brother our full earnings makes it appeal to me better than the present commercial system, where the weaker gets crushed every time.

Cross-examination.

By Mr. CHILDS:

I am a district manager of the league. My duties are to make the league's plan plain to the people in general, and I receive $2.50 for every new co-operator which I secure myself. I am a co-operator myself and have not yet realized. I joined in January and paid $1.00 per month. I hold two co-operator's agreements and have paid something like $14. or $15. My wife and children are also co-operators and I pay for them. When the agreement matures the money I will receive will be sent in by the other co-operators; those that joined before me as well as those that join after.

Assuming that a co-operator does not secure any new co-operators he will realize at the end of five years and the money for his realization will be paid out of what was contributed by the members for the month in which he realizes and will come from the co-operators who joined subsequent to the date when the realizing member joined. I have explained the league to about seven or eight-hundred persons who my and their friends have secured as members. An endowment of eight to one cannot be paid unless the membership increases eight to one.

142 Mr. CHILDS:

Q. Now, Mr. Walters, suppose the League of Equity grows up to the limit which you referred to in your direct examination, and then begins to decrease in membership. Now when it reaches its limit, is that the time when it pays the largest endowments?

A. Not necessarily.

Q. Not necessarily?

A. No sir. You mean when we get—when we have nearly used up our opportunities, is that what you mean, or limit, or when we get to the highest ratio?

Q. When you get to the highest ratio there must be more there. There is a larger membership at that time.

A. That has nothing to do with it. It is a matter of growth. Suppose it is a fifteen for one growth.

Q. Suppose it keeps on growing up to a certain limit where they pay fifteen to one?

A. Yes sir.

Q. All the members up to that time having paid on an average of eight to one?

A. No.

Q. Is that a possibility?

A. No. If it was growing fifteen to one all the members would have been paid fifteen for one.

Q. Suppose they were paid fifteen to one each year right up to the time they reached their maximum growth.

A. Yes sir.

Q. And then it starts to move the other way, retrograde.

A. In what rate? Fourteen the next year, thirteen the next—or just a supposing case that it comes from fifteen down to one?

Q. Suppose it dwindles down in five years, from the time of its maximum growth down to no members.

A. Down to no members?

Q. Or down to one member.

A. Down to one member.

Q. Down to one member.

A. What then?

Q. Is that possible?

A. I don't think so. Not if I were one of those members, it would not.

Q. If no new members are secured that is possible, is it not? It

is possible, is it not, if there are no new members in that five years, if the organization dwindle down from 5000 to one?

A. You have got all the people now. We have reached our maximum and we have fifty million in there.

Q. You say you have reached your maximum?

A. About fifty million.

Q. Assuming that it is 50,000,000 and you have got them all as co-operators, and you secure no others, and in five years that 50,000,000 dwindles down to one member.

A. Do you think that is a possibility?

Q. Suppose that it is. That one member has paid in $60, has he not?

A. I don't know whether he has or not. He may have only joined the day before.

Q. I am assuming that no new members do join after the concern has reached its maximum.

A. All right.

Q. He has paid in $60, has he not?

A. All right.

Q. He draws out one dollar the day of his endowment, does he not?

A. All right.

Q. He has put in $60?

A. All right.

Q. Draws out one——

A. What growth does he make?

Q. I am not saying he gets any members.

A. He gets paid, according to the agreement, just what is made, whether that be much or little.

Q. I am merely trying to show it is possible for a man to pay in $60 and only draw out $1.

A. Not if he works for the company. If you have money invested you will see it isn't going backwards. You will watch that investment and you will work to make it valuable. You will be foolish if you don't.

143 Continued.

Q. What is the motive that inspires these co-operators, Mr. Walters?

A. What is the motive?

Q. To get something for nothing, to get eight dollars for one dollar?

A. It is not true. It cannot be. You cannot get something for nothing.

Q. What is the object?

A. You cannot get something for nothing; not even in a lottery do you get something for nothing. I put in—take my own case—I joined this league, and I put in one dollar a month, and I labor hard in explaining this league, explaining the plan, to get somebody to join. If that is not labor it is nothing.

Q. Supposing you are one of the men that does no labor, and at the end of the five years you get eight for one. What have you done to earn that seven dollars?

A. Supposing you are not a producing member. Here is a prospective member. I tell him about the plan, I say, Mr. so and so is a member, go and see him. He sees you, and you show the plan the best you can.

Q. Suppose you don't do that. Suppose you just put in your one dollar a month and at the end of five years you get your $500.

A. Each person is a co-operative unit.

Q. Suppose he does not do any work; is he a co-operative unit?

A. Yes, sir, he co-operates with his dollar. If you do not do any work we could not maintain a growth of eight for one, or any high rate or figure, unless we agree to pay you part of the profits, which we do. We agree to give you one-half of it. If we didn't do that our rate of growth would be only one or two probably. That is the reason we give you part of this realization. Come and join with us.

Q. What is that dollar earning during these five years. What is this $60 earning during this five years?

A. Did a dollar ever earn anything?

Q. Is it put on investment?

A. No sir.

Q. You assumed a minute ago, Mr. Walters, that your maximum would be about fifty million.

A. I just said that as a supposition.

Q. I will assume now you have reached your maximum at 5000.

A. Yes sir, but that is not the fact. We have more than that now.

Q. People begin to suspect that this thing is not going to work out, and you secure no new members of any kind. It is perfectly possible that will be the result.

A. It will if the post office keeps bothering us, yes.

Q. It is possible that there will be one man left, is it not, of this 5000, providing no new members come in.

A. No. If we stand still we will all pay in. You said supposing the case as it is. We all pay in. We would all be members now We would stand just as we are.

Q. You would all be in, but you would be paid off as your endowments become due, would you not.

A. Yes.

Q. The last man would come out in five years from now, supposing he joined at present?

A. Yes sir.

Q. There would be one man left in the concern?

A. He joins today and five years hence he comes out.

Q. There would be nothing to pay his $500, or whatever it is, except the one dollar he put in?

A. What growth did he make. Come back to our agreement with that gentleman.

Q. You say he is a co-operative unit.
A. We come right back to our agreement.
Q. Then it is possible to have a last man.
A. No sir, I do not say that.
Q. Is it possible to have a last man if there are 5000 co-operators in the league all quit at present, and one joins today, the only one that joins this month, and no members join during the next five years?

144 Continued.

A. Why, that is a supposition case.
Q. Is that possible, assuming that that case might happen.
A. You would positively know that is a fact, if one joins and nobody else, in five years.
Q. I am asking you.
A. What is the question?

(Question read.)

Mr. CHILDS: Add to that question—'possible that there be a last man'?

A. That there would be an assumed last man, yes, on that supposition.

145 CHARLES A. HIGGINS, called as a witness on behalf of the complainant, being first duly sworn testified as follows:

My name is Charles A. Higgins. I am a newspaper man, a journalist and reside at Canton, Illinois. To quite an extent I am acquainted with the plan of the League of Educators and was a member thereof. I am also a member of the League of Equity, and am acquainted with its plan and I have made a study of both plans, more particularly the former. The plans in their underlying principles are the same. They differ only in the amount paid by the co-operators and the amount realized. I have read the literature, and if the League of Equity is left unobstructed in its course it will in my opinion finance out because of the natural tendency of man to look after number one. I believe in the principle of equity and humanity; at the same time there is that element of looking after number one in the financial return, which by virtue of the co-operator's agreement makes every member a worker and an agent. Of course there will be some drones in the hive, but the underlying principle of the league is that of work and endeavor in each member. Its return to the co-operator speaking from a financial standpoint depends entirely upon the work of the members and agents. It appealed to me particularly after having studied at least to some extent the various fraternal and old line insurance plans of the country, and that is what first drew my attention to it. The league's plan is more definite and less uncertain than the same application to fraternal insurance. In the league the particular point that appealed to me is that the date of the realization is certain, a certain number of

years, and it was not gambling on life and death, an uncertain number of years.

I have had some experience in examining into the plans of both fraternal and old line insurance and have studied both of them and worked as agent in both lines and carry insurance on myself. There is no such an element in the league's plan as lot or chance in the general acceptance of the terms lottery or chance or gamble. Its plan is definite and certain as much as human matters can be. In accepting the co-operator's agreement in the League of Equity I understood and took into consideration that the realization depended upon the growth of the league and according to the agreement I was supposed to do my share to produce that growth, the agreement being a mutual one between myself and all other co-operators. The rest of the growth besides what I produced is to be produced by the co-operators and agents.

Relative to whether or not in the league's plan there is to be a last man I may say that I have always found that the last man is a very elusive person. I do not mean to say there could not be a last man any more than there could be a first man, but I do not believe that in accordance with human nature there would be a last man in the league, because every member for his own self-interest must necessarily be a worker or co-operator.

The testimony seems to be a good deal on supposition, but suppose that the growth entirely stopped, necessarily there would be a last man, the same as if there would be no increase in population there would be a last man upon the earth, but we have the opportunity of securing every man, woman and child of moral character, not limited by condition or wealth or position, or because they are males or females or because they belong to some particular sect, so that our opportunities for growth or the material from which co-operators can be secured is greater than that of any other association of which I have knowledge, except it be a church. I presume that would accept all moral people. Then again every co-operator would have the opportunity of becoming a member the second time at the end of each succeeding five-year period. Every year by increase of population brings additional material so under the natural course of nature I do not see how there could be a last man. Upon the supposition of improbabilities there could be. In the league it lies within the power of the co-operator to see to it that there is not any last man.

146 I am acquainted with a great many of the members by personal correspondence and meeting them; I should think I am acquainted with two hundred of them who reside in this city and State and a large portion of them in the State of Iowa. The majority of those whom I have met are in commercial and professional lines. I should judge they are people of ordinary intelligence; at least I consider them equal to my own. There are physicians, dentists, bankers, insurance men, merchants and in nearly each instance some female member of their family, laboring men, carpenters, contractors to a lesser extent.

Cross-examination.

By Mr. PEEK:

I at one time had the State management of the league for the State of Iowa, and as manager I became acquainted with a good many of these doctors, lawyers, merchants, etc. A number of them were members before I was a member. As State manager I received compensation for my services. I ceased being State manager the first of last August or September. My confidence that there would be no last man is based entirely on what I believe to be the ability of the present membership to secure new members. It would depend entirely on the members, as those who are not members would not do it, and that I regard as a natural certainty. The laws of science and nature which we do not control are to the human mind absolute certainties. I mean by natural certainty, that the same self-interest that governs the members of any association, whether it be insurance or banking or lodge; work for unity of interest. I never knew of a co-operative scheme on this plan to fail. I have known a great many to fail; possibly as many as I have banks, but not as many as I have insurance companies. The insurance records which come from the State auditor of the various States where the law requires their report to be made shows that there have been over seven hundred old-line companies fail in the United States. I have not any records on the failures of banks, but I have been aware that there have been several fail at different times.

The word "co-operative" is greatly misused. Of those who have adopted the term, probably one-half dozen which have come to my notice have failed. Of those who have failed and did not fail, I have probably known forty or fifty, and I know of none on the same co-operative plan as the League of Equity.

Redirect examination.

By Mr. SICKLESTEEL:

I have known of no other so-called co-operative organization that I have investigated which I consider truly co-operative. I say that because I do not think that they were of the character in which I would care to make application for membership. There are none of them but what took a certain portion and went into the general finance idea of reserve and accumulation and an extraordinary large portion for the managers. I do not think it would be necessary or beneficial or advantageous to the league in its plan to create a reserve fund because it does not have the uncertainty of death to meet, which may come in one day or fifty years. The reason I say it is a natural certainty that the league can continue by getting new members is because it is based on the unalterable law of increase.

Adjournment was taken until December 19th, 1902 at ten o'clock a. m.

Parties met pursuant to adjournment.

147 Mr. SICKLESTEEL: I have a number of other witnesses that I could put on; Mr. Jacker here in this building, Dr. Bartlett and Mr. Putnam of the New York Life, and so on, but their testimony would be merely accumulative and therefore I close the case of the complainant.

Mr. Peek then offered the testimony of witnesses taken before the master in this case on December 5th, 1902 on the rule to show cause which was admitted in evidence over the objection of counsel for the complainant; the abstract of which testimony so far as is necessary for this appeal is as follows:

HAZE MORGAN, a witness called on behalf of the defendant, being first duly sworn testified as follows:

Direct examination.

By Mr. BETHEA:

My name is Haze Morgan. I am a post-office inspector, residing at Washington, D. C. I am acquainted with both Mr. Davis and Mr. Baxman. I first met them at their offices in the Woman's Temple building, Chicago, Illinois. I met Mr. Davis at Washington in the Assistant Attorney General's office.

It is admitted by counsel for the complainant that the exhibits attached to the answer were issued either by the board of managers of the League of Educators or by the Public Clearing House, as the said exhibits on their face purport to have been issued and were part of the literature of either of the aforesaid organizations, and that they were admitted in evidence as part of the evidence in this case and that they are considered a part of this abstract.

The WITNESS: Mr. Davis and his counsel were present at the department when the fraud order was issued against the League of Educators and I think altogether that they must have occupied the attention of the office of the Attorney General and the office of the Postmaster General for about a week, although the hearing and consideration of the case extended probably over a period of three weeks. I have examined the papers and documents of the complainant so as to be enabled to determine what their plan is. I examined it to-day and at different times.

Court adjourned to two o'clock.

TWO O'CLOCK P. M.

Parties met pursuant to adjournment.

HAZE MORGAN resumed the stand and his direct examination was continued by Mr. Bethea:

I have had a conversation with both Mr. Davis and Mr. Baxman about this business at their offices in the Woman's Temple building, Chicago, Illinois, covering a period of several days prior to Septem-

ber 16th last, the date of my report of my investigation. I have a copy of the fraud order which was issued against the League of Educators, which is a copy of the original order that was entered. I made both the original and the copy myself, and it was before the Postmaster General when he passed upon the fraud order under consideration in this case.

Mr. Bethea then offered in evidence a copy of the fraud order which is in words and figures following:

147½ (Copy.)

Order No. 1184.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *Oct.* 22, 1902.

It having been made to appear to the Postmaster General, upon evidence satisfactory to him, that the League of Educators, of Chicago, Illinois, and its officers and agents in their capacity as such, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, in violation of the act of Congress entitled "An act to amend certain sections of the Revised Statutes, relating to lotteries, and for other purposes," approved September 19, 1890—

Now, therefore, by authority vested in him by said act, and by the act of Congress entitled "An act for the suppression of lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," approved March 2, 1895, the Postmaster General hereby forbids you to pay any postal money order drawn to the order of said League of Educators, or its officers and agents in their capacity as such, and you are hereby directed to inform the remitter of any such postal money order that payment thereon has been forbidden, and that the amount thereof will be returned upon the presentation of the original order or a duplicate thereof applied for and obtained under the regulations of the department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to the said League of Educators or its officers or agents in their capacity as such, to the postmasters at the offices at which they were originally mailed, to be delivered to the senders thereof, with the word "Fraudulent" plainly written or stamped upon the outside of such letters or matter. Provided, however, that where there is nothing to indicate who are the senders of letters not registered or other matter, you are directed in that case to send such letters and matter to the Dead Letter office with the word "Fraudulent" plainly written or stamped thereon, to be disposed of as other dead matter under the laws and regulations applicable thereto.

(Signed) H. C. PAYNE,
Postmaster General.

To the postmaster, Chicago, Ill.

148 The WITNESS: I have examined all the exhibits accompanying the defendant's answer.

The following testimony was admitted by the master over the objection by counsel for the complainant:

The WITNESS: On the certificate issued by the League of Educators the realization table is printed on the back, and the certificate issued by the League of Equity, it is printed on the face of the certificate. The tables are substantially the same. Under the certificate issued by the League of Educators if the growth is at 15 to 1 the total endowment paid at the maturity of a certificate is $500. less five per cent. at a total expense to the realizer of $33.33. Under the certificate issued by the League of Equity the total realization if the rate of growth is 15 to 1 paid at the maturity of the certificate is $900. at a total expense of $60. In the certificate issued by the League of Equity the scale runs down, showing what the total realization would be if the growth was 14 to 1, 13 to 1, 12 to 1, 11 to 1, and so on if the growth were on a uniform basis or they had no growth at all, the membership remaining as it was. Under the certificate issued by the League of Educators if the growth was anywhere from 15 to 1 to 8 to 1, the total endowment would be $500. at an expense increasing slightly until an 8 to 1 growth, the expense would be $62.50. In the certificate issued by the League of Equity the total realization is shown if the growth were from 15 to 1 down to 1 to 1, or nothing, but for each difference in the growth the realization would decrease slightly but the expense would be the same all the way through, and under the certificate issued by the League of Educators the managers allow themselves five per cent. of all that was collected, for clearing house fee. Under the certificate of the League of Equity they allow themselves ten per cent. There is no other difference in the certificates.

I have had about three years' experience in investigating lottery and fraud schemes. This plan would operate in the payment of different endowments to persons who joined at the same time as well as to persons who join a month sooner or a month later than the others. It follows therefore as to whether or not a person will receive a large or small endowment, depends upon chance, within the meaning of the statute under which the Postmaster General acts in issuing fraud orders. First the chance that new members will join. Members may join in large numbers which will give a large maturity value. They may join but lapse before you become due and you may get scarcely anything, while if they continue to pay their assessments you might have realized the maximum endowment. Another feature of lottery in the scheme is the chance that sufficient new members will join to entitle the beneficiary to the maximum, medium, or minimum endowment. It all depends upon the volume of new business at the time the maturities become due and the number that become due at that time.

Mr. Davis and Mr. Baxman stated to me that all persons joining at the same time receive the same redemption value. I examined their books on the 16th of September and prior thereto, at Chicago,

and I learned that all those who had joined the same time approximately contributed the same amount, receiving the same endowments; and I further learned that persons who joined at times before or after certain other persons had joined, had contributed the same amount, they often receiving less, and in other instances they would receive many times more, depending upon the amount of new business during the period.

Insert after the word "period" in the 10th line from bottom on page 21.

Well, experience will show—it is a well settled fact, I should think that there will be an end to all such enterprises as this.

The examination of the books showed that during the league's existence, which covered a period of about four years it had collected from the membership of about 13,784 members a total of $137,390.66, of which amount the promoters and their agents had taken about $36,052 for expenses, the remainder having been distributed among six or seven-hundred members, while the thousands of members who were at the time of the issue of the fraud order and are now on the league's books have not received a cent, somewhere between five-thousand and thirteen-thousand, and unless there are new co-operators and new blood to come in and pay these people off
149 they never will get anything. I think that illustration is sufficient; that is the past experience of the company shows that if it is permitted to run on and do more business, that the number of people who will eventually suffer loss will be many times larger than it is now. When the money comes in from the different people the managers take off their expenses and distribute the rest among the persons who have joined earlier, and I do not know of any other resources which they have. They do not make any investments whatsoever. They simply took the money and charged ten per cent. under the present plan and paid it out. They assess the whole membership the amount stated in their certificate, which I believe is $1.00, and while the whole membership had to pay that uniform assessment, the total amount realized after ten per cent. is deducted for expenses is paid out to the few who are supposed to mature at that time, they realizing a great deal more than they paid in; whether it be $4. for 1 invested or $10., or the maximum amount mentioned in the realization tables, depended upon the membership they had at the time the assessment was levied. If they have a large membership they will levy the assessment so as to pay those who are going to mature the maximum endowment, which is as shown by the realization table. The purport of the circulars and literature is to hold out to the people that if they join they will realize as much as the league has paid in the past to those who have realized, which they state in Exhibit A. has never been less than the eight-fold ratio or $8. for 1 in five years; in partial payments if they comply with certain conditions one-fifth of that amount each year. Assuming that in the League of Equity they have a membership of five-thousand and continue to pay 8 for 1 and there are no lapses

and they are to pay at the end of each year just as the illustrations set forth in the answer it would be five times the figures shown in the answer; five times 97 trillion, 70 million, 728 thousand at the end of ten years.

The complainant issues a certificate which provides for a redemption value as shown by the realization table under the literature, which is in the hands of the patrons, may be considered will not be less than 8 for 1 at the time the certificate is finally matured, which is five years from date, but if these members go to work and secure one, two or three members the first year, then they can realize one-fifth of the total of that certificate, and the next year if they secure the same number of members they can realize another partial payment and so on, but the man who does not secure any new members at all, but continues through the five years period and pays the same amount as the one who secures fifteen new members right straight along, receives the same endowment as the one who renders what they call co-operative service; notwithstanding he has not rendered any service. How can the plan of the complainant save all the people who invest in it, when there are no investments at all by the company and the complainant never returns to the world but 90 cents on the dollar of the amount received from the population less the membership fee?

Cross-examination.

By Mr. SICKLESTEEL:

My opinion is that by these exhibits the patrons of the League of Educators, which in my opinion has been succeeded by the League of Equity, are lead to believe that they will receive the same profits that they would have received had there been no change or interference. This I take from the fourth paragraph of Exhibit "I," and it depends upon the construction to be given that circular and other matters which had been mailed and sent out by the Public Clearing House as to whether or not the members are lead to believe that they will receive 8 to 1 in one year, five years or any other time. That is the conclusion that I come to from this exhibit. I cannot say, however that I have ever seen any of the patrons of any of these concerns.

Insert after the word "concerns" in the second line from bottom on page 22.

I state what a man of ordinary sense would think from what I believe these patrons have received in the way of literature and circulars from the League of Educators, and the League of Equity and the Public Clearing House. I might answer further that the time they receive this circular letter, Exhibit J. they don't have these realization tables. On the new certificate the only realization tables they know about are the ones on the old certificate which insure an eight for one.

I examined the books of the complainant company on September

16th, 1902 and prior thereto. At that time I understood the
150 name to be the League of Educators, and that was the last time that I ever examined any of the books of either the League of Educators or the Public Clearing House at their office, and believe I examined the books and records of the Public Clearing House when I examined the books and records of the League of Educators.

I was present at the Post-Office Department on November 10th, 1902, when the fraud order set up in the bill of complaint was issued and I saw the Postmaster General's signature to the original but did not see him sign it. I did not present to the Postmaster General any of the exhibits; nor do I know if any of the officers or agents of the Public Clearing House were present before the Postmaster General on November 10th, or prior thereto before the order was issued. I do not now remember of ever investigating plans of fraternal insurance. I have investigated plans that have involved insurance features, but whether or not I ever investigated a company or concern engaged solely in fraternal insurance I cannot now recall. I did not give the plan of fraternal insurance much investigation on my own behalf or otherwise as to how it works or how they base their relations in financing out. I did not investigate the plan to any considerable extent. And I did not investigate for either the department or for my own information the plan or system which is known as old line insurance, nor on what they base their business. I am engaged in investigation of so-called bond investment companies and similar concerns, and concerns engaged in the conduct of schemes which are false and fraudulent on their face and will not finance out, and involve elements of lottery or chance, or which when not being frauds or lotteries upon their face may develop into such in practical operation. I do not remember the title of any of those companies that I investigated. I have a great list of them at my office at Washington and should not like to blunder at their names, some of which I might get right and some I might not; and I have been engaged in investigating the operation of certain concerns as special agent or post-office inspector for about one year and a half, and about a year and a half I put in at the department at the desk analyzing and dissecting the schemes. I never was a stenographer in the department. I was on the clerks' roster in the office of the Assistant Attorney General previous to my detail to this work.

I prepared some figures but whether or not they are those set up in the answer which start in with multiplying by 8 and so on I am unable to say, and I am also unable to say whether or nor those in the answer are copies of the figures; and when I state that the League of Equity or the League of Educators will not finance out my reason for it is based upon the principle elucidated by those figures and those figures and the statement in the answer is my understanding of the principle involved in the plan of the League of Educators and of the League of Equity.

Presuming that the plan was all right I do not know whether or

not the managers of the League of Educators took any more money than they stated they would take, namely the 5 per cent. I perhaps looked into it slightly and I would not say that they or their agents have taken any more than I state in my former answer, which included everything. It was an omnibus answer and I took the figures from the books of the promoters and I made a report of my investigation to the department, and I cannot say that I discussed the report before Mr. Christiancy because the report speaks for itself. I cannot say whether I made any remarks concerning my report before Mr. Christiancy at the hearing when Mr. Davis was present in the month of October. I may have referred to the report. I did make reference to the scheme the company was operating before Mr. Christiancy when Mr. Davis was present. I cannot say that I did at that hearing ask in effect or in substance that a fraud order be issued for the reason that that is not my business. That is his business, to hear these things and to make such recommendations to the Postmaster General as he thinks best. I stated in the presence of Mr. Christiancy and in the presence of Mr. Davis and his counsel that I thought the scheme was fraudulent and also that it was a lottery. I believe the signature to the letter now handed to me to be the signature of Mr. Christiancy and the initials " H. M." on the corner of it are my initials, put there by myself and I evidently had the letter or else I would not have affixed my initials to it. I think
151 there was another reason than that stated in the letter why the department issued the fraud order. The other reason was because the scheme was a lottery. The Postmaster General never announced to me that he understood the scheme was a lottery. I know of my own knowledge that these papers were before the Postmaster General. I took them myself and was accompanied by Mr. Christiancy, and I did not see Mr. Davis. He had had his hearing before the Post-Office Department. He did not have a hearing before the Postmaster General while I was present. I was at the department. It is the regular custom of the Postmaster General that these hearings should be referred to the office of the Assistant Attorney General.

Mr. SICKLESTEEL: I now offer in evidence a letter identified by the witness which was received and read in evidence as follows:

H. M. Office of the Assistant Attorney General for the Post-Office Department.

WASHINGTON, *November* 10, 1902.

Hon. William Alden Smith, Grand Rapids, Mich.

SIR: By reference of the Fourth Assistant Postmaster General, this office is in receipt of your communication of the 30th ultimo, in which you request, on behalf of a constituent, to be advised as to the grounds for the issue of the "fraud order" against the League of of Educators, Chicago, Ill.

Briefly stated, the scheme of this concern was held to be one

which would not finance out under the known and recognized rules of business. The league exploited the fact that it had not, on the average, paid its realizing members less than about eight dollars for each dollar contributed. As a mater of fact, it had collected over $135,000 from more than twelve-thousand members and disbursed the same after deducting its commissions, among about seven-hundred members, the remaining members having to depend upon future contributions for their returns. The concern had no sources of income, not even from lapsation, and was rendered insolvent each month after its month's collections had been disbursed to those who were early to join.

In the language of the Attorney General (dealing with a scheme similar in principle)—

"As it will require much more than the money of one investor to make the specified periodical payments to each previous investor, it will require an accession of new comers, constantly increasing at high progressive rates in order to make such payments; and it is obvious that this cannot continue indefinitely, but that the end must come sooner or later; and when it does come, then the more successful the business up to that time the greater and more widespread will be the loss."—

Wherefore he concludes that such a scheme is fraudulent within the meaning of sections 3929 and 4041, R. S., as amended, which authorize the issue of "fraud orders" by the Postmaster General.

I have the honor to be,
Very respectfully,

G. A. F. CHRISTIANCY,
Acting Assistant Attorney General
for the Post-Office Department.

152 HAZE MORGAN was then produced as a witness on behalf of the defendant and was duly sworn as a witness on this final hearing, being the same witness whose testimony was taken on the rule to show cause and which immediately precedes this.

The WITNESS: The fraud order was issued October 22nd, 1902, and before it was issued my report together with the exhibits contained in the literature of the League of Educators comprised the evidence, or at least a part of it, upon which the fraud order was issued, and Mr. Davis and his counsel both had a hearing before the Post-Office Department prior to the issue of the fraud order against the League of Educators. I have made a study of the plan of the League of Eligibles and the League of Educators and the League of Equity as set forth in their literature. It is possible from the agreements for two members to join the League of Equity at the same time and each pay in the same amount and draw out different amounts.

The witness here read from notes which he said he had prepared himself, a statement as follows, and which he claimed was mostly a mathematical demonstration based upon the pos-ibilities and probabilities under the plan of the league, and was a memorandum, which witness stated had been prepared in order to enable him to

answer without repetition. The witness then read from his memorandum over the objection of counsel for the complainant, as follows:

"A. and B. might join now on the 19th day of December, 1902 and the former matures his certificate one fifth annually by securing new members, while B. might secure no new members and receive nothing until the expiration of five years. In December 1903 the collections might be sufficient to pay each maturing member including those maturing by limitation as well as because of so called co-operative service, $6 for each $1 paid in less 10 %. If so, A. would have the first one-fifth of his certificate redeemed by payment to him of $64.80, dependent upon the following contingencies which neither the promoters nor the individual members can control nor forecast, to wit; first: The increase of new members who may join either voluntarily, by solicitation of other members, or by the solicitation of the promoters. Second, the number of members who may have lapsed, and third the number of members who may have ceased to contribute by reason of their certificates having been redeemed and collections for December, 1904 might be sufficient to pay each maturing member $3 for each dollar paid in, less 10 % or $32.40 to A. The third year dependent upon the same contingencies, the maturing members might receive $4 for each one dollar invested and A. would receive $43.20. The fourth year the collections for December might be sufficient to pay to maturing members $7 for each one dollar invested when A. would receive $75.60 and the collection for December, 1907 might be sufficient to pay maturing members $8 for each dollar invested by them; then A. would get $86.40 for his remaining fifth; B. would get five times that amount or $432.; summing up what A. has received shows his total return to be $302.40, notwithstanding he may have secured many members, at least fifteen, while B.'s return is $432. although he secured no new members. For where a certificate holder has his certificate matured partially each year he is held down to a one-fifth of the so-called growth during the year, and if the growth the first year should be sufficient to pay him on the one-fifth of his certificate matured the first year, the maximum rate of profit provided for, namely 15 to 1, but is great enough to pay him that maximum rate of profit on his one-fifth which might be the fifth or last year, or indeed even a greater profit if the certificate permit of a greater profit, the excess can, according to the plan be paid the certificate holder in order to bring his
153 realization on the first fifth redeemed the first year up to the maximum or above the rate of profit which was actually taken the first year. The certificate holder who has his certificate redeemed partially in twentieths, tenths or fifths annually, may, on the other hand, receive more than he whose certificate is wholly redeemed at the end of the fifth year, for dependent upon the fluctuations or contingencies above named, the promotors may collect enough during the first, second, third and fourth years, to pay the maximum rate of profit on the first four-fifths of the certificate, but

during the last year the complexion of the membership might so change that only a one to one ratio would be maintained in redemtions held during the last month of that, namely the fifth year. Under such conditions A. on the illustration would receive many times as much as he contributed, while B would not receive in return as much as he had paid in."

Here the witness ceased reading from notes.

Upon the happening or non-happening of the contingencies I have just mentioned it is possible for individual members who join in different months and secure no new members to pay in the same amount and draw out different amounts. For example:

"A. might join in January, 1903, together with fifty other members who joined that month. B. might join in February 1903 together with 100 other members who joined that month. They may all of them run five years without having their certificates redeemed partially before that time. The business might have uniform growth so that five years from January 1903, or five years from February, 1903, the collections for those two months might be approximately the same. Whatever the collections for those two months may be they are to be divided *pro rata* among those members who are entitled to them. A. having joined in January and having to share his collections with only fifty others would receive 100 per cent. more than B. who joined in February, and had to share the collections for that month, which may be approximately the same as the previous month with 100 members, and he would therefore only receive about only half as much as they."

It would be impossible for the League of Equity to finance out under its system even though it did not take one man's money to pay another, because it makes no investment. If they were to use the money only that each member paid in to reimburse his money he would never get as much as he paid to the league because of the fact that his membership fee together with the ten per cent. of all subsequent fees is deducted. By the term "finance out" is understood by the commercial world that no concern finances out, which when the end comes will cause loss to any investor, because no concern, in other words as the commercial world understands it, or as the business world understands it, is in good condition or will finance out when it — impossible to stop the influx of new members or of new blood and let the business take care of itself without loss to any member concerned.

I think there is a concealment of a material fact in the certificate issued by the League of Equity. It is this:

The witness reading from notes:

"According to the promotor's plan of alleged purely mutual cooperation, the moneys paid in by the holders of certificates issued by the League of Equity of the Public Clearing House in one month, could never be taken to pay off the holder of a fully matured certificate issued in a later month, but the court records show that A. for

instance, might purchase a certificate say in November 1902 and B. purchase one in December, 1902, and yet have his certificate redeemed on a five year basis before A. had been a member half that number of years. In a case of this kind B. would be given credit by the complainant concern for many monthly or yearly payments which he had never paid to the promotor, that is the complainant in this cause—for payments he may have made to some other concern. And notwithstanding that the complainant concern may have never received $1 from said other concern on account thereof."

Here witness ceased reading from notes.

154 Q. Can you show to the court any concealment in form of certificate in the complainant's bill?

A. The record shows that the complainant maintained yesterday that under the form of certificate set forth in the bill it would be embezzlement and fraud on the part of the complainant to enforce the literal meaning of clause two of the certificate, unqualified; he would be placing arbitrary restrictions thereon which are not placed thereon by the certificate itself, were the complainant to begin business anew thereunder. Yet the complainant has begun business anew thereunder and has issued the first certificate within the past two months, and if it would be fraud for say John Doe of London to begin business on this certificate and make collections thereunder under clause two thereof, before one year had elapsed, from the date the first one was issued, then it would also be fraud for the complainant concern of Chicago, Illinois, to so make collections thereunder, as it has been doing, notwithstanding the connection the promotors of this concern may have had with some other foreign concern. There must be some initial holders of certificates for value issued by complainant who will not know that the complainant promotors ever had any connection with any other co-operative concern, such for instance as the League of Educators who will be assessed monthly under clause two. Those initial holders will bear the same relation in their consciences to the promotors as the holders of the same certificates would bear in their consciences to the promotors of an entirely new, unburdened scheme of this kind. And if it be fraud to collect from the holder in the one case previous to the first year, or the time in which a certificate might naturally mature, it is also a fraud of like character to collect from the holder in the other case.

Q. And you think there is no notice given by the certificate that the money paid in by a new and initial co-operator is being used to pay the co-operators of a former organization?

A. There is no such notice contained in the certificate itself. I might hear of the complainant company. I might want a certificate. I may never have seen any of its advertisements. I might forward my application with the $3. to the office here in Chicago and they would accept that application and issue me a certificate. I might or might not become afterwards a subscriber to the organ they call The Vigilant. If I did become a subscriber to that organ it might

be after I had purchased my certificate and then for the first time when the endowment calls were published I would perceive the trap which I think is set in clause 2, but if I never became a subscriber to The Vigilant, as might be the case, I might not know it until I had paid several monthly installments and found the fact out otherwise.

155 The elements of chance or contingency underlying the scheme of complainant may be briefly summed up as follows: The amount of the prizes may be determined, first, by the increase of new members who may join either voluntarily or by solicitation of other members, or by the solicitation of the promotors direct. Secondly, the prizes may be affected by the number of members who have lapsed or who may lapse from time to time. Third, the prizes may be affected by the number of members who have ceased to contribute by reason of their certificates having been redeemed; and there is a general element of chance in all schemes of this kind, that will not according to known and recognized rules of business finance out, and that is the chance that the members will be lucky enough to get before the collapse comes, and thus get no prize at all, large or small.

I have made an investigation of the Public Clearing House and its organization. I talked briefly on the subject with Mr. Davis, but my investigation has been based principally upon the literature and certificates, letters and other mail matter issued by the League of Equity, and which came to the office of the Assistant Attorney General.

Relative to whether there could be a last man in the system of purely mutual co-operation, I might say that according to statements made by other witnesses it appears that a condition has been encountered where there are almost five-thousand last men now. It has been testified that the business is now almost at a stand-still and that there have hardly been any collections in the last few months, and no better illustration of the last man principle can be given than that afforded by the investigation which showed that $137,000 had been collected from a membership of something like 13,000 and less a commission, has been paid out to something like six or seven-hundred members, and there is nothing left in the treasury for the remaining thousands, and if the business was to come to an end now the last man would receive nothing.

Cross-examination.

By Mr. SICKLESTEEL:

These thousands of last men are brought about by the inability of the company to do business against the orders of the Post-Office Department. I have never been engaged in any mercantile business. I have been a post-office inspector since the first of the fiscal year. Before I went into the post-office I was a student at school. I might have gone into the department before I completed my education as I completed the law course after I went there.

In the statement that I gave about A. and B. I did not figure it out on any basis, of growth during the period of years, because that does not enter into it. You simply find how much you collect and the number of people that is going to realize and divide it up *pro-rata* regardless of growth. The ratio is set forth there in the notes and is set forth there in my answer. The figures I gave are upon an assumed growth, and you cannot determine in advance what the ratio of growth is going to be, and you cannot tell when you levy your assessments, and you do not know until you get your money. If you get a thousand dollars and it is to be divided among ten, you say the growth is ten to one. If you get $500, you say it is five to one, although you may have levied your assessment on a thousand or any number of members. I said if they collected enough money to go around they would know it. If it was six to one, they would get it. If it was ten to one they would get it. You have to make your calculations after you get your money to find out what the ratio is going to be. It is absolutely undeterminable how much your maturing members will get until after you collect it. They cannot get it unless you collect it. I have not been in the office of the complainant company since it was organized.

156 Redirect examination.

By Mr. PEEK:

Whenever a complaint is received by the Postmaster General under the regulations he refers it to the office of the Assistant Attorney General to determine facts and to determine whether a fraud order should issue, just as the court refers a case to the master. The office of the Assistant Attorney General notifies the party accused of the charges preferred against them and advises them that it will be taken up and considered on a day certain and that he is at liberty to be present either in person, by attorney or by brief; however, if he does not appear on that day the officers will proceed to consider the advisability of issuing the order. After the hearing the Assistant Attorney General makes a written and signed report and sends it to the Postmaster General, who either approves or disapproves of the findings. If he approves of them he issues the order. If he does not approve of them the order is not issued. That was the method followed in this case, and while it is not customary for the Postmaster General to go further into the matter than to examine the findings of the Attorney General and the exhibits which accompany his report, yet in this case the Postmaster General exceeded his usual custom, examined the report of the inspector and exhibits personally and saw the representative of the concern personally. There is also an appeal in the findings of the Assistant Attorney General for the Post-Office Department in his rulings or opinions to the Postmaster General, which is not provided by law but by custom to the Attorney General. I know of appeals from the findings of the Assistant Attorney General for the Post-Office Department to the Attorney General of the United States.

Recross-examination.

By Mr. SICKLESTEEL:

I saw the Postmaster General examine the papers on the morning of October 12th, 1902. He examined them for about one-half or three-quarters of an hour; and I did not see him examine them at any other time. I think Mr. Davis or his counsel made an effort to have their case submitted to the Attorney General. I believe the request was made before the order was issued, but it was not considered a case proper for appeal. The denial of the appeal is a denial of a courtesy, not of a right.

157 The following are extracts from the Eligible Vigilant and The Vigilant, the official organ of the League of Educators, and its predecessor which were offered in evidence by the defendant and admitted by the court.

The following are from the "Eligible Vigilant" of November 1901:

"Last year the N. Y. Life Insurance Company paid over one million dollars on 336 policies, each of which had been in force less than a year and on which less than an average of $10.00 had been paid the company. Thus by dying, each one's estate must have received $2976.00 for $10.00 or $297.00 for every dollar paid out. This makes the league's ratio of 8 to 1 seem small in comparison, but take comfort members; you don't have to die to realize in the L. of E. Then too if the N. Y. Life can pay $297.00 for $1.00 and make big profits, the league which has no expense can truthfully assure you that 8 to 1 is safe, sure and perpetual."

"An eight for one ratio means realizing a return of eight dollars for one dollar, plus co-operation. The co-operation is of more account than the one dollar."

"Always been 8 for 1 or better."

"Know that 8 for 1 is safe."

"The league teaches how to work—how to make $1.00 honestly yield $8.00."

"$8.00 for $1.00 is as good for your friends as for you."

"The realization for members of the league has never been less than $8.00 for $1.00."

"Commercialism studies addition and subtraction.
Co-operation teaches multiplication and division."

"Why the league is solid.

Because its members are intelligent, reasonable people who have joined because they have faith in the league's plan; faith in one another, and know that by working in unison each can honestly realize valuable benefits.

Each certificate is backed by the word and honor of the whole associated body of members, and thus is valuable. The league is founded, not on chance or untried theory, but on tested and proven ideas and on an exact mathematical basis.

No member is ever allowed to join with his eyes closed. Every detail of the league's plan and its actual working is an open book to all. Honest self-interest impels every member to become a co-worker in earnest; hence the league grows of its own accord, and cannot be retarded by any possible combinations.

Absolute control of the league rests in the hands of the aggregate membership, and is not vested in any individual or set of men. Honest self-interest makes each member valuable to the league, just as it makes him a useful citizen in our country. Purely mutual co-operation, actually applied removes every element that in all other affairs not thus conducted are sources of fatal weakness. There is not the tiniest motive for any person connected with the league in any capacity, to co-operate in any other way than that of honesty, fairness, uprightness and equality; for it is only by the genuine application of such principles that the best realization surely follows."

"The life of the league is identical with the life of human beings. The same fundamentals that make it possible for human beings to exist and go through the routine of life from day to day, are the same principles, the same rules of duty and the same moral laws that enter into and make up the system of co-operation as applied by the League of Educators; therefore a person who opposes the league renounces the principles, causes, reasons, powers and laws which make his own existence possible. Everything that the people do from the time they rise in the morning until they retire at night is done by adhering to the unalterable law of drawing upon one another in precisely the same way that the endowment is realized for each member of the league."

158 The following are from the "Eligible Vigilant" of December, 1901:

"The league's record has never been less than 8 for 1."

"One dollar brings back eight, because the average member adds eight co-operators."

"Service, your most valuable asset, yields you 8 for 1."

"8 for 1 will last as long as the people will it so."

"Influence, your invisible capital, pays you 8 for 1."

"8 for 1 is as permanent as the people's will."

Insert after the word "will" in the 8th line from top on page 30.

Who guarantees.

A matter that sometimes worries a man who contemplates joining the league, is the question of what guarantees him his realization. He has three solid and safe guarantees. The first is his own ability during his period of membership to get eight people to join just as he joins. The second is the ability of the league as a whole to get the eight if he fails. The third is the ability of the management to get the eight if the first and second guarantees do not materialize.

An eight to one ratio only makes it necessary for a member to get co-operators at the rate of one and three-fifths new ones each

year. Combining the efforts of the management, of members as a whole, and of each individual, it is not at all hard to see how the natural ratio is the surest thing in human affairs.

The following are from "The Vigilant of January, 1902:

"How do they do it?

The forty life insurance companies that report to the New York State insurance department, had in force last year, $6,947,096,609.00 of insurance. Their total gross assets were $1,723,737,723.00, and their gross liabilities $1,565,459,781.00. This was the actual condition of old line life insurance reporting in that State in 1900.

Forty years previous, or in 1860, seventeen companies handled business in that State. Their combined insurance in force amounted to $163,703,455.00, their gross assets were $24,115,686.00, and gross liabilities, $17,159,873.00.

Thus in the last forty years the old line life insurance system has grown in amount 42 fold. Assets have increased 72 fold and liabilities 92. If an affair as valuable as life insurance can within its period of realization, the average man's life expectancy, increase its elements 42, 72 and 92 fold, why cannot an organization as much more valuable, available and productive, yet so much less expensive, maintain its 8 to 1 ratio?

The real reason that the people think the league's 8 to 1 too good to be true, is because they have so long allowed wise profit-takers to devour the luscious apple of co-operative production, and have been so content to have a bite or two of the core for themselves. The people plant the trees this fruit grows on, and they gather the apples. Why will they persist in thinking the fruit they raise is too fine for their own palates?

The men back of old line life insurance have had forty years of a great deal better than 8 to 1 production? Do you wonder that they are all multi-millionaires? The dollars they have are rightly theirs, for they have done a great work for the people. The generous public has never been allowed to learn that this laborious task was really an easy one, or that producers could exploit their own dollars to advantage and profit."

The co-operative idea has come to stay in "merrie old England." Last year the co-operative stores of Great Britain did a business equal to $349,000,000.00; yet, only a few years ago, the great and wise Gladstone owned that "if anybody had prophesied to me the success of the co-operative system in England—if I had been told that men would so associate together for mutual advantage, I should have regarded the prediction as absurd. There is in my opinion no greater social marvel than the manner in which these societies flourish, combined with a consideration of the soundness of the basis on which they are built."

"How it is done.

One of the best managed and most progressive of our American fraternal societies made this showing last month: Deaths 11, claims on same $28,000.00, average age of deceased 32 2-11 years, average term of membership of deceased 6½ years, total amount paid into order by the deceased $1,265.12.

There is a good point in this for league members to study. Eleven people joined, were members six years, paid in $1,265.12, died, and their estates received $28,000.00, or better than $21.00 for every dollar paid in a six year period.

Fraternal orders and life insurance companies surpass the
159 league's co-operative ratio of 8 to 1 in a five year period, but in purely mutual co-operation, you realize in five year periods anyway, and never have to die to compel others to co-operate in your behalf."

"A comparison.

Under purely mutual co-operation, he who co-operates best receives the best reward. In all partially co-operative organizations, he who co-operates least, that is, dies soonest, leaves the greatest claim to be paid, and that at the highest ratio.

The Modern Woodmen of America in three months paid out on 713 claims, $1,317,100. Members in whose behalf these claims were settled had paid into the order just $15,110. Thus this strong order can and does pay nearly $100.00 for $1.00.

The Knights of Maccabees in 1900 paid 1169 claims. Thirty-nine per cent. of them foot $637,800. These had brought in but $11,067. So realization here was $58.00 for $1.00, on over one-third of its entire annual realization.

The Heptasophs paid out during the same year, $320,000. on $6,146 paid in, or $50. for $1.00, to thirty-eight per cent. of its annual maturing claims.

The Fraternal Tribunes paid $81,350.00 for $1,754.81. or almost $50.00 for $1.00; and the Fraternal Aid Association had received only $10,858.40 from 319 members, whose claims amounted to $739,967.00; a realization of $75. for $1.00.

The above figures are taken from the regular reports of the above organizations, and were not selected at any period when the societies were paying unusually numerous claims.

The M. W. A. has been doing as well as this for eighteen years; the Maccabees since 1883; the Heptasophs since 1878; the Fraternal Tribunes since 1897, and the Fraternal Aid Association since 1890. All have maintained in addition, a complex expensive system of organization, and are today in a most enviable financial condition.

How can the doubter who says the league's ratio of 8 to 1 is "too good to be true" explain such ratios?

To the above is appended a comparison in round numbers which show the results. Purely mutual co-operation does not yield such great returns, but then, you do not have to die to realize. 8 for 1 is better alive, than 100 for 1 dead.

System.	Benefits, average.	Term of men'ship.	Total cost.	Realization ratio.
L. of E.	$500	5 years	$62.50	8 for 1
M. W. A.	2000	Till death.	20.00	100 for 1
Maccabees	1000	"	17.00	58 for 1
Heptasophs	1000	"	20.00	50 for 1
Frat. Tribunes.	2000	"	40.00	50 for 1
Frat. Aid Asso.	1000	"	12.50	75 for 1

160 The following is a copy of exhibit offered by defendant and received in evidence:

The sensation of the hour.

Millions in co-operation. A 20th century movement.

Progress is the American spirit, and like the Athenians of old we want something good and striking.

Here it is.

You can get $8.00 for every $1.00 you now possess and no one be hurt by the process. Learn how to exploit your dollars so that they will return $8.00 to you for every $1.00. Such a thing cannot be done by commercialism, but it can, and is being done by co-operation.

By investigation many things are made clear that would otherwise lie hidden in darkness.

Send full particulars.

To ....

P. O.: ....

Street: ....

[On reverse side:]

Private Mailing Card.
Authorized by Act of Congress, May 19, 1898.
(Postal card—Carte Postale.)

1c. stamp.

By investigation many things are made clear that would otherwise lie hidden in darkness.

Board of Managers
League of Educators,
184 La Salle street,
Long distance phone, main 4387. Chicago, Ills.

The following is a copy of exhibit offered by defendant and received in evidence.

(Here follows fac-simile marked p. 160*a*.)

20728

FORM NO. 2. READ IT AFTER READING NO. 1.

Public Clearing House
F. E. Boyne, Postmaster, etc.
No. 618
4. 1903

THIS IS THE SOLUTION.

This picture is intended to represent all the people in the United States. There are nearly eighty million of them. The center figure represents the League, or co-operative platform which we will imagine is ten feet above the ground. The mass of people you see standing on the platform are true co-operators. They are members of the League of Educators. They have gone upon the platform for the purpose of co-operating with one another in a purely mutual way. Around this platform is a great concourse of people; nearly eighty millions of them. The good, bad and indifferent are all there but they are all gradually being federated and educated by the League's system of co-operation. How easy it is when it is understood and the object of this circular is to make it so plain that even the children can understand it.

You will notice in the illustration that four persons are ascending the stairway to the platform. They have decided to co-operate in a purely mutual way with those on the platform and have joined the League for this purpose. On the right corner of the platform you will notice one person descending the stairway. He has just drawn his Endowment and is going into the crowd to scatter the good news and at the same time work himself back to the stairway on the left so that he can ascend again and co-operate with those on the platform for a second term and thereby realize a second Endowment.

Now look at the entire picture and imagine that the great mass of people before you, nearly eighty millions, all live in the United States—to say nothing about the people of Canada, many of whom are already co-operating. Now look at the mass of people on the platform. They are members of the League of Educators and are co-operating with one another in a purely mutual way. Now look at the four persons who have come out of the crowd and are ascending to the platform. Now look at the co-operator or member on the right who is descending the stairway. He has co-operated the required length of time and has drawn his Endowment.

Is it not a fact then that so long as four persons are joining the League or going upon this co-operative platform to one going off by reason of drawing the Endowment that each person going off will realize the Endowment at an expense of not to exceed $125.00, or $4.00 for $1.00. For example:

ENDOWMENT.	RATIO OF INCREASE.		EXPENSE.
$500.00	Divided by 4	Equal	$125.00 in five years.

Look again at the platform and imagine eight persons ascending the stairway to or descending (meaning eight persons joining to one going out) which they are now doing, and you will see and realize how the expense is being kept down to $62.50 in calls or not to exceed $1.04⅙ per month. For example:

ENDOWMENT.	RATIO OF INCREASE.		EXPENSE.
$500.00	Divided by	8 Equal	$62.50 in five years.

Second example: $62.50 total, in five years divided by sixty months in five years equals $1.04⅙ per month for five years.

Third example: Sixty months in five years at $1.04⅙ per month equals $62.50 in five years.

All this can be accomplished simply by the willingness of the people to go upon the platform or join the League and co-operate with one another in this purely mutual way, but somebody says, "How long can it be done?" Well, let us see. If the present eight fold ratio rate of increase should continue for the next twenty years each one would receive the Endowment at an expense of $62.50 in calls and still not use up one-half of the increase of the population of the United States in that time, but if the time should ever come in the distant future when such a rapid increase in the membership could not be maintained, then the only thing necessary to do would be to increase the time for the new members to co-operate, and by so doing the unborn generations who will be co-operating at that time could not possibly lose anything or be hurt in any way by the process.

Prospective members should bear in mind that there is only one thing to consider before joining the League, and this one thing and the only thing that enters into the case is at what ratio or rate will the membership increase. Is it not reasonable to believe that the membership will continue to increase rapidly when the very fact of each one being willing to join makes it a certainty that members will realize the Endowment at a small expense? Each one's willingness to have it so makes it so. Then why should any one hesitate a moment to join the League when the voluntary act on the part of each one in joining the League makes it a certainty that the Endowment will be realized for each one at a small expense.

The time of maturity of the certificates of membership does not enter into the case so long as people are willing to join and co-operate. The reason the time is placed at five years to receive the Endowment as a recompense for faithful co-operation is because some people are hesitators or doubters and it takes time to discipline their minds and educate them so they will understand the value of purely mutual co-operation, or what people can accomplish by co-operating with one another in this purely mutual way.

If there were no skeptics, hesitators or doubters everybody would join the League at the first opportunity, which would enable the Management to make the time less than five years for each one to realize the Endowment as a recompense for faithful co-operation.

Statistics, number of Endowments becoming due, the time of maturity of certificates of membership and all the usual questions and objections that may arise have absolutely nothing to do with the case. There is only one thing to consider and that is, are the people of this Country willing to join the League and co-operate with one another in this purely mutual way. Of course they are because they know (if they understand the plan) that it is an impossibility for it to cost any member any more than his or her pro-rata share in order to realize the Endowment and that the very fact of each one being willing to join is what makes it a certainty that the pro-rata share for each one to pay will be very small.

If the membership continues to increase at the eight fold ratio rate, meaning eight joining to one going out, the expense cannot exceed $1.04⅙ per month, which makes it cost members $62.50 in Endowment Calls (either in money or by recommendation) to secure the Endowment at the end of five years, or eight dollars for one dollar in five years, which the following table will attest, for example:

ENDOWMENT.			RATIO OF INCREASE.			EXPENSE.
⅛ of $500.00	=	$100.00	+	8	=	$12.50, three members 1st year of membership.
⅛ of $500.00	=	$200.00	+	8	=	$25.00, three more members 2nd year of membership.
⅛ of $500.00	=	$300.00	+	8	=	$37.50, three more members 3rd year of membership.
⅛ of $500.00	=	$400.00	+	8	=	$50.00, three more members 4th year of membership.
⅛ of $500.00	=	$500.00	+	8	=	$62.50, expiration five years for faithful co-operation.

All will concede that as the League grows older people will more and more realize the value of purely mutual co-operation by experience, which will cause the membership to grow even faster than at the present eight fold ratio rate, but in order to show what the result would be if the membership did not increase so rapidly after the first five years the following table is appended at the four fold ratio rate of increase for the second term of five years, making ten years from the present time, for example:

Endowment.			Ratio of Increase.			Expense.
¼ of $500.00	=	$100.00	+ 4	=	$ 25.00,	three members 1st year of membership.
½ of $500.00	=	$200.00	+ 4	=	$ 50.00,	three more members 2nd year of membership.
¾ of $500.00	=	$300.00	+ 4	=	$ 75.00,	three more members 3rd year of membership.
4/4 of $500.00	=	$400.00	+ 4	=	$100.00,	three more members 4th year of membership.
5/4 of $500.00	=	$500.00	+ 4	=	$125.00,	expiration five years for faithful co-operation.

Attention is called to the fact that the three fold ratio rate of increase (meaning three dollars for one) is maintained by members themselves and the Management, with the "Application by Recommendation" letter system and a large corps of District Managers and Representatives, can certainly secure as many new members as the members themselves can, so therefore, it does not require very much foresight to see how much each one will realize by such a system of profit making.

Several representatives and members of the League have protested because the management do not do the League justice, inasmuch as the foregoing tables are presented showing a decrease in the ratio rate of increase five years hence. They argue, and rightly too, that it will be much easier to maintain the present increase five years hence, but the management take the opposite view of it for the benefit of those whose conservative instincts are deeply rooted.

Particular attention is called to the fact that the eight fold ratio rate of increase (see first table) for the next five years, realizing $8.00 for $1.00, only requires the League to have one-third as many members in five years as the Modern Woodmen of America secured last year.

The continual rapid growth of the membership is assured by reason of what has already been accomplished, but if there is a pessimist, skeptic, or doubtor anywhere who thinks the time might come when people will have lost all respect for brotherhood fraternity and will not continue to join the League so rapidly, just doubt with him and then you can prove to him, no matter how bad he makes it, there will always be enough people to join the League to make it the biggest and best profit maker in the land for the reason that it gives the co-operators or members the full results of their co-operation instead of giving one-half or two-thirds of each dollar to the profit-takers. Any way it can be reckoned the League's system of co-operation will prove itself to be the most wonderful proposition ever presented to the American people, and the reason for it is because no matter at what ratio the membership is increasing members always receive 95 cents of every dollar realized by their co-operation.

Every member should bear in mind that nothing else enters into the case except the increase of membership and when a person brings up any other questions or objections such a person should be promptly reminded that his questions or objections have no bearing and are without meaning for the reason that everything is controlled by the increase of membership. Each one should know and realize that his or her willingness to have it so makes it so and that nothing else enters into the case, except that people be willing to join the League. The very act of joining on the part of each one is what makes it a certainty that all will realize the Endowment at a small expense.

Every organization on the face of the earth must continue to add to its membership in order to exist, and in the case of the League there need never be the last man because people can rejoin the League and continue to co-operate in this purely mutual way as long as they live.

Something to Think About.—Don't common sense and reason teach that a system of co-operation is a wonderful thing which gives the co-operators or members 95 cents of every dollar realized by their co-operation.

A Second Thought.—It is an impossibility for the Management of the League to prosper unless the Endowment is realized for each member at a small expense, so what the Management would do for themselves they must of a necessity do also for the members of the League.

Co-operation being honest, its trade is an open trade; it has no secrets because it takes no advantage of any one, and therefore, it has nothing to conceal. Openness is a source of public confidence; it is therefore to the interest of the Management and members to make everything very plain so that the people at large will understand that a purely mutual system of co-operation cannot take advantage of them and that it is to the advantage of all concerned to have the methods of business used in connection therewith as an open book.

The motto of purely mutual co-operation is "The more publicity the more prosperity" hence the reason all books, papers, membership cards and everything else used in connection with the business is open for inspection.

The only thing that will cause people to realize the value of purely mutual co-operation is education and discipline. These are the two great factors in the League's work. The plan is a marvel of simplicity. All can readily understand it by disciplining their minds along co-operative lines. All questions cheerfully answered.

Board of Managers

C. FRANKLIN DAVIS, Pres.
MARTIN J. BAXMAN, Sec. and Treas.

LEAGUE OF EDUCATORS,
Central Office and Clearing House,
184 LaSalle St., CHICAGO, ILL.

THE VALUE OF A DOLLAR
AND
WHOSE IS IT.

The value of a dollar is only one hundred cents.

What makes it worth one hundred cents? Answer—The government's stamp.

Who is the government? Answer—The people.

Why do the people put a stamp on a piece of paper or metal and call it worth one dollar? Answer—So that it may be used as a medium of exchange for convenience only.

Who are the real producers and owners of all the dollars? Answer—The people.

Do the people circulate, exchange and exploit their dollars to the equal advantage of each one and the good of the whole? Answer—No; they have access to only a few of the dollars that they have produced and consequently own.

What has become of the people's dollars? Why do they not use, exchange and exploit all of the dollars that they have produced and own? Answer—The profit-takers and the profit-taking organizations have taken the peoples dollars and hoarded them for private gain instead of allowing the people to use, exchange and exploit their own dollars for the good of the whole.

What makes the League so much better than other organizations? Answer—Because the profit-taking feature has been left out of it and the people get all the dollars realized by their co-operation instead of allowing the profit-takers or middle men to step in and use up more than half of the peoples dollars for private gain to themselves, which is being done by every organization that is operating under the present economic profit-taking system. Those who want the "promoters," "company" or "corporation" to use up more than half of the peoples money in profit-taking for private gain, of course will not join the League, but those who want the people to have all of the dollars that they have produced and own will join the League at the first opportunity.

WHY THE LEAGUE IS SO GOOD.

It is so good because it is a profit-maker instead of a profit-taker. It is so good because it gives the co-operators or members 95 cents of every dollar realized by their co-operation instead of allowing a "Concern," "Company" or "Corporation" to use up more than half of each dollar by profit taking. It is so good because the present profit-taking commercial system has been dispensed with and a profit-making co-operative system substituted which gives the people the full results of their co-operation instead of giving half or two-thirds of each dollar to the profit-takers. It is so good because it is operated on the profit-making co-operative side instead of the profit-taking commercial side.

AN INTERESTING CONVERSATION.

The following is the trend of a conversation between Ralph Gurney, a member of the League, and his uninformed friend, Joe Burk.

RALPH TO JOE: Did you read the L. of E. literature I gave you?

JOE: Yes, I ran over it hurriedly, and it sounds all right, but I do not see how they can do it.

RALPH: Who do you mean by "they?"

JOE: Why the League, the Company of course.

RALPH: You were right Joe, when you said you had hurriedly read the literature. I would suggest that you go over it again carefully, at which time you will see that the "They" whom you call the League or Company are the members of the League themselves, who are co-operating with one another in a purely mutual way for the purpose of furnishing each other the Endowment.

JOE: Oh, I see now. I thought it was a Company or Concern doing it, and, of course could not see how they could afford to pay out so much for so little.

RALPH. No Company or Concern could do any such thing, for the reason that they take more than half of each dollar of the peoples' money for private gain, but the people of this Country who constitute the League, are doing it by co-operating with one another. They get 95 cents of every dollar realized by simply doing away with the Company and taking the full results of their co-operation themselves.

JOE: I have begun to see the difference.

RALPH: Will you read the literature again carefully?

JOE: Yes I will, and I may join.

RALPH: All right when you are ready, I will recommend you, but I do not want you to join until you thoroughly understand it.

161 WILLIAM W. WALTER, recalled as a witness on behalf of the complainant on rebuttal testified as follows:

I was present when Mr. Haze Morgan testified on Friday last. It is not possible under the plan of the League of Equity for two members to join the league the same time and each pay in the same amounts and draw out different amounts as testified to by Mr. Morgan. In my opinion the fallacy in the illustration given by Mr. Morgan is that he did not give the number of members that were co-operating, nor the number of members that were to realize, nor the number of new members who will join during the period of existence of the league, yet in substance he started from nowhere, with nothing to figure on, and ended at the same place; but taking the assumptions which Mr. Morgan took, and assuming that A. as in his illustration, received $336. less ten per cent., in his five years, he would receive 5-3/5 times $60. the amount he had paid, which would show the 5-3/5 growth maintained during that five year period for the reason that there could not be 5-3/5 times the amount of money paid in unless there had been maintained this 5-3/5 growth. Mr. Morgan's figures show a growth of six for one, three for one, four for one, seven for one and eight for one in each year of the five years, which would make a total growth of twenty-eight; the average growth would therefore be 5-3/5 and B. would receive 5-3/5 times the $60. he had paid or $336. less ten per cent., the same as A. had received. B. would not receive 8 for 1 in the final year for each of his $60. contributed because that was the growth of the last year only. B. would share in that growth of 8 for 1 for one year, being $8.00 for each of his $12. paid that year. Then he could not receive $8.00 for $1.00 for the total $60. unless there had been maintained during the full five years an eight for one growth for the reason that there would not be that many members contributing.

The facts show that the average member made a 5-3/5 growth; consequently there would not be money enough to pay the 8 for 1 unless there had been a growth made of 8 for 1 for each year.

Relative to the statement of Mr. Morgan in his testimony that "the promoters may collect enough the first, second, third and fourth years to pay the maximum rate of profit for the first 4/5ths of the certificate, but during the last year the complexion of the membership might so change that only a one to one ratio could be maintained on redemption held during the last month of that, namely the fifth year, under such conditions A. on the illustration would receive many times as much as he had contributed while B. would not receive in return as much as he had paid in." Now if there had been 15 to 1 pay for four years, there necessarily would have to be that number of members, and the last year there was a one to one growth made for that year. The total growth will be sixty-one divided by five would make an average, and you would find that A. would receive just what that average is, and there would be just that much money there for B.

Cross-examination.

By Mr. PEEK:

My criticism of the illustration given by Mr. Morgan is that he did not take any definite number to start with, nor did he take any definite number of members realizing with A. My authority for averaging the growth at the end of the five year period is from the statement on the co-operator's agreement, which says "If all the co-operators secured an average of only two new co-operators, each only for five years, their realization is 600 or ten for one in five years."

That is where the word "average" comes in. I was reading from and explaining the ordinary and causation realization tables that is contained on the face of the certificate, and I am reading from the explanatory note on the back of the agreement. You will
162 notice that all the clauses there refer to the causation table and that the note on the back explains it and makes it more simple.

I have heard the testimony which has been given in this case to the effect that — the end of the five year period the amount realized by the call is simply divided up among the persons whose realizations mature, in that month and I have heard that you have been trying to make that seem to be the plan, but it is not the plan as we co-operators understand it.

I have been at the office of the complainant company but do not make it my headquarters. I have nothing to do with the division of the funds at the end of the five year period, but I have taken up the amounts each month and saw what the growth was and ascertained whether the people got their right realizations, which in each case has proved out.

(Endorsed:) Filed Feb. 19, 1903 Marshall E. Sampsell clerk.

163 And on to-wit: the 9th day of January, 1903, being one of the days of the regular December term of said court, 1902, in the record of proceedings thereof in said entitled cause before the Hon. Christian C. Kohlsaat, district judge, appears the following entry to-wit:

Order of January 9, 1903.

Objections taken before the master to stand as exceptions to master's report.

THE PUBLIC CLEARING HOUSE
vs. } 26538.
F. E. COYNE, as Postmaster of Chicago.

Now come the parties by their solicitors and on motion of the complainant, it is ordered that the objections taken before the master stand as exceptions to said master's report and leave is hereby

given the complainant's solicitor, to withdraw the record of *of* the testimony taken before Master Booth for one week, and the fees of Master Booth for taking the testimony herein *is* fixed at the sum of four hundred and seventy five ($475) dollars.

164 And on to-wit: the twenty-third day of January, 1903, being one of the days of the regular December term of said court 1902, in the record of proceedings thereof in said entitled cause before the Hon. Christian C. Kohlsaat, district judge, appears the following entry to-wit:

Decree of January 23, 1903.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster of the City of Chicago. } 26538.

Now again come the parties by their solicitors, and thereupon this cause is set down for final hearing upon the exceptions of the complainant to the report of the master herein and the court having heard the same, together with the arguments of counsel, and being now fully advised in the premises overrules said exceptions.

It is thereupon considered and adjudged by the court that said report be and the same is hereby confirmed, and the bill of complaint herein be and the same is hereby dismissed for want of equity at the costs of the complainant, and that the defendant have execution for his costs herein taxed at the sum of seventy-one dollars and seventy cents.

Complainant entering its motion for appeal, the court fixes the penalty of the appeal bond in the sum of three hundred dollars.

165 And on to-wit: the 27th day of January, 1903, came the complainant in said entitled cause by its solicitor and filed in the clerk's office of said court its certain petition for appeal in words and figures following to-wit:

Petition for Appeal.

UNITED STATES OF AMERICA,
Northern District of Illinois, } *ss:*

In the Circuit Court of the United States for the Northern District of Illinois.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE, as Postmaster. } No. 26538.

To the honorable the judges of the circuit court of the United States for the northern district of Illinois:

Now comes the complainant, The Public Clearing House by D. I. Sicklesteel, its solicitor and presents to the court this its petition and

prays for an appeal to the Supreme Court of the United States from the order and decree of this court entered herein on the 23rd day of January, A. D. 1903, overruling the exceptions of the complainant to report of William M. Booth, master in chancery, and confirming said report and denying to said complainant an injunction prayed for in the bill of complaint, and dismissing said bill of complaint for want of equity.

THE PUBLIC CLEARING HOUSE,
By D. I. SICKLESTEEL, *Its Solicitor.*

(Endorsed:) Filed Jan., 27, 1903, Marshall E. Sampsell, clerk.

166 And on to-wit: the 27th day of January, 1903, came the complainant in said entitled cause by its solicitor and filed in the clerk's office of said court in said cause its certain assignment of errors in words and figures following to-wit:

Assignment of Errors.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the Circuit Court of the United States for the Northern District of Illinois.

THE PUBLIC CLEARING HOUSE }
vs. } No. 26538.
F. E. COYNE, as Postmaster. }

Complainant's (appellant's) assignment of errors.

Now comes the complainant, The Public Clearing House, a corporation by D. I. Sicklesteel, its solicitor, and files this its assignment of errors to the order and decree of the court entered herein on the 23rd day of January, A. D. 1903.

First. The court erred in not adjudging that the statutes in question were unconstitutional and void.

Second. The court erred in overruling the complainant's exceptions to the report of William M. Booth, master in chancery to the court.

Third. The court erred in ordering and adjudging that the report of said master in chancery to the court be confirmed.

Fourth. The court erred in refusing and denying to the complainant an injunction as prayed for in the bill of complaint.

Fifth. The court erred in dismissing the complainant's bill of complaint for want of equity.

THE PUBLIC CLEARING HOUSE,
By D. I. SICKLESTEEL, *Its Solicitor.*

(Endorsed:) Filed Jan., 27, 1903, Marshall E. Sampsell, clerk.

167 And on to-wit: the 27th day of January, 1903, being one of the days of the regular December term of said court, 1902, in the record of proceedings thereof in said entitled cause before the Hon. Christian C. Kohlsaat, district judge, appears the following entry to-wit:

Order of January 27, 1903, Allowing Appeal.

THE PUBLIC CLEARING HOUSE
vs. } 26538.
F. E. COYNE, as Postmaster of the City of Chicago.

This cause coming on to be heard upon the petition of the above named complainant, The Public Clearing House, praying an appeal to the Supreme Court of the United States from the order and decree of this court entered herein on the 23rd day of January, A. D. 1903, and upon hearing counsel for both parties,

It is ordered, and adjudged that the said complainant be allowed and have an appeal from the said order and decree of this court to the Supreme Court of the United States.

168 And on to wit: the 27th day of January, 1903, there was filed in the clerk's office of said court in said entitled cause a certain bond in words and figures following to wit:

169 Know all men by these presents, that we, The Public Clearing House, a corporation, as principal, and J. D. Gilmore, as surety, are held and firmly bound unto F. E. Coyne, as postmaster of the city of Chicago, in the State of Illinois, in the full and just sum of three hundred dollars, to be paid to the said F. E. Coyne, as postmaster of the city of Chicago, in the State of Illinois, his successors and his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 27th day of January in the year of our Lord one thousand nine hundred and three.

Whereas, lately at a session of the circuit court of the United States for the northern district of Illinois, in a suit depending in said court, between The Public Clearing House, a corporation, and F. E. Coyne, as postmaster of Chicago in the State of Illinois, a decree was rendered against the said The Public Clearing House, and the said The Public Clearing House having obtained an appeal and filed a copy thereof in the clerk's office of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said F. E. Coyne, as postmaster of the city of Chicago in the State of Illinois citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington within 30 days from the date thereof,

Now, the condition of the above obligation is such, that if the said The Public Clearing House shall prosecute its appeal to effect, and answer all damages and costs if it fail to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

THE PUBLIC CLEARING HOUSE. [SEAL.]
C. FRANKLIN DAVIS, *Pres't.* [SEAL.]
J. D. GILMORE. [SEAL.]

Sealed and delivered in presence of—

——.
——.

Approved Jan. 27, 1903.
KOHLSAAT, *J.*

(Endorsed:) Filed Jan. 27, 1903. Marshall E. Sampsell, clerk.

170 NORTHERN DISTRICT OF ILLINOIS, } ss:
Northern Division, }

I, Marshall E. Sampsell, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record in said court and made in accordance with the præcipe filed in the cause entitled The Public Clearing House *vs.* F. E. Coyne, as postmaster of the city of Chicago, as the same appear from the original records and files of said court now remaining in my custody and control.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at my office in the city of Chicago, in said district this 20th day of February, 1903.

[Seal of Circuit Court U. S., Northern Dist. Illinois, 1855.]

MARSHALL E. SAMPSELL, *Clerk.*

171 UNITED STATES OF AMERICA, ss:

To F. E. Coyne, as postmaster of the city of Chicago, in the State of Illinois, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an order allowing an appeal, filed in the clerk's office of the circuit court of the United States for the northern district of Illinois, wherein The Public Clearing House, a corporation, is complainant, and you are defendant, to show cause, if any there be, why the decree rendered against the said complainant as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Christian C. Kohlsaat, district judge, this

27th day of January, in the year of our Lord one thousand nine hundred and three.

KOHLSAAT, *Judge.*

Service accepted.

S. H. BETHEA,
U. S. Dist. Att'y.

[Stamped:] Circuit court of the United States, northern district of Illinois, northern division. Filed Jan. 27 1903 Marshall E. Sampsell, clerk.

172 [Endorsed:] No. 26538. Supreme Court of the United States. The Public Clearing House *vs.* F. E. Coyne, as postmaster. Citation to the Supreme Court of the United States.

173 In the Supreme Court of the United States, October Term, 1902.

THE PUBLIC CLEARING HOUSE
vs.
F. E. COYNE. } No. 618.

It is hereby stipulated by and between the appellant and appellee that the whole of the record and all of the exhibits filed herein shall be printed by the clerk of this court, except Exhibits "A" and "C" attached to the answer of the defendant, and he shall also print the following articles or excerpts contained in said Exhibits "A" and "C":

All the printed matter on the first page, not the cut. The preface, page 2, all of pages 3, 4 and 5. The articles entitled "The Mistakes of the Blind" on page 11, "Remember" on page 12, "Why the League is so Good," "The Value of a Dollar and whose it is" and "As Sure as Death and Taxes" on page 15. "The Very Same" and "Points on the Certificates" on pages 19 and 20, all of pages 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31, and the printed matter on the back of the said exhibit. Said pages specified being the paging as numbered in said exhibit.

And he shall also print the following articles in The Vigilant for May 1902, being Exhibit "C" attached to defendant's answer. The outside cover of said exhibit, all of pages 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21 and 22. Said pages specified being the paging in said exhibit.

D. I. SICKLESTEEL,
Attorney for Appellant.
HENRY M. HOYT,
Solicitor General.

[Endorsed:] No. 618. Supreme Court of United States. The Public Clearing House, appellant *vs.* F. E. Coyne appellee. Stipulation as to printing record. D. I. Sicklesteel attorney for appellant.

174 [Endorsed:] File No. 18846. Supreme Court U. S. October term, 1902. Term No. 618. The Public Clearing House, app't, *vs.* F. E. Coyne, as P. M. of Chicago, Illinois. Stipulation as to printing record. Filed May 9, 1903.

Endorsed on cover: File No. 18,846. N. Illinois C. C. U. S. Term No. 618. The Public Clearing House appellant *vs.* F. E. Coyne as postmaster of the city of Chicago, in the State of Illinois. File l February 24", 1903.

FILE COPY.

Supreme Court U.S.
FILED
FEB 15 1904
JAMES H. MCKENNEY
Clerk

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1903.

No. 224.

THE PUBLIC CLEARING HOUSE,
Appellant.

vs.

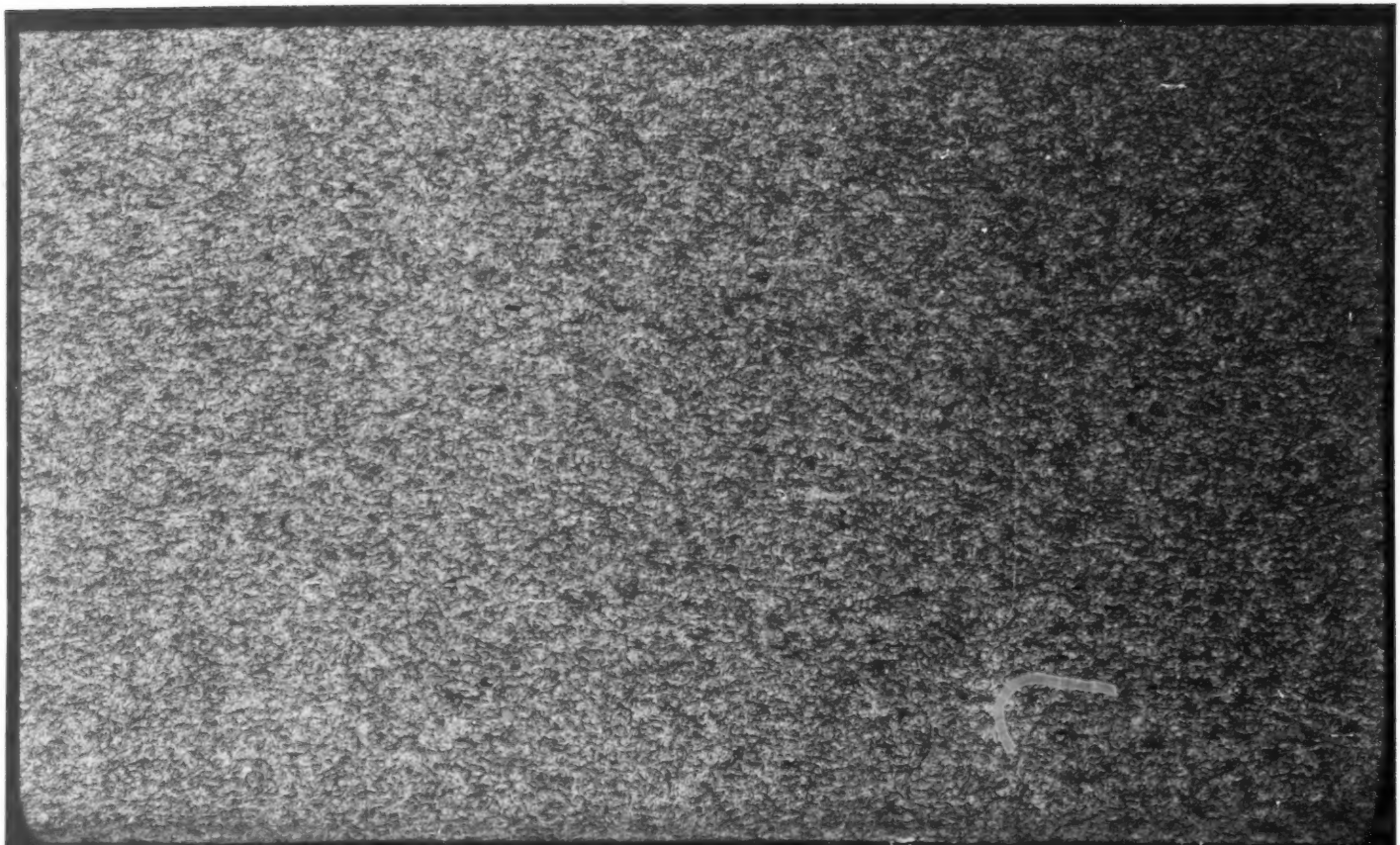
F. E. COYNE, as Postmaster of the City of Chicago, in the State of Illinois,
Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

BRIEF IN BEHALF OF APPELLANT.

D. T. SICALESTEEL,
COUNSEL FOR APPELLANT.

Rudolph & Wood Print., Chicago.



20735

IN THE

Supreme Court of the United States,

OCTOBER TERM, A. D. 1903.

No. 224.

THE PUBLIC CLEARING HOUSE, *Appellant,*

vs.

F. E. COYNE, as Postmaster of the City of Chicago, in the State of Illinois, *Appellee.*

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

Brief in behalf of Appellant.

STATEMENT.

This is an appeal from an order and decree of the United States Circuit Court for the Northern District of Illinois overruling the appellant's exceptions to the master's report, confirming the report and dismissing appellant's bill for want of equity, at appellant's cost.

The bill was filed by appellant, a corporation organized under the laws of the State of Illinois, carrying on its business at the City of Chicago, in said district, against appellee, F. E. Coyne, in his official capacity as postmaster of said City of Chicago, praying for an injunction to restrain him from seizing and detaining appellant's mail, stamping it fraudulent, and returning it to the send-

ers thereof, and from denying to appellant the use of the money order and registered letter system of the United States post-office department. An answer and replication were filed, and the cause referred by the court to master in chancery William M. Booth, Esq., to take the evidence and report same, together with his conclusions thereon to the court.

The record presents for the consideration of this court the constitutionality of Sections 3929 and 4041 of the Revised Statutes of the United States as amended by Section 4 of the Act approved March 2, 1895, which permits the postmaster general of the United States and the post-office department to arbitrarily, without notice or hearing of any kind, and without any judicial determination, to order and forbid the use of the entire post-office establishment to whomsoever these officials shall see fit, and to brand, charge and publish any individual, firm or corporation with being engaged in business forbidden by the laws, and to deprive them without due process of law, or even the least semblance of process of law, of their property and property rights in the use of the United States mail service, and arbitrarily to order the interdiction and seizure of mail of any party they may see fit, even though such mail be innocent and properly mailable.

If the court should hold that said statutes are constitutional, then the record presents the further question if when an order has been issued against appellant forbidding it the use of the mails on the ground that "it is conducting a scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises" and the master and court finds that such was not the case, but, on the contrary, it was not so engaged, can the court still

deny the injunction prayed for, on the ground that the business of appellant is a lottery, and contravenes the lottery provision of said statutes?

If the court should hold that when a fraud order has been isued under said sections of the statute, on the ground that appellant was engaged in conducting a fraudulent business, and the court below finds that appellant was not so engaged, but that its business was in contravention of the lottery statute, then this record presents to the court the further question, of whether or not the facts as proven by the evidence constitute in law a lottery, within the meaning of the aforesaid statutes.

HISTORY OF THE PROCEEDINGS.

On the 24th day of November, A. D. 1902, at Chicago, in the State of Illinois, appellant (complainant) presented to the Honorable Christian C. Kohlsaat, Judge of the District Court of the United States for the Northern District of Illinois its bill of complaint and application upon notice to defendant for an injunction against appellee, F. E. Coyne, as postmaster of the City of Chicago, which bill of complaint was duly verified. Thereupon Judge Kohlsaat entered a rule on the defendant to show cause in five days why a temporary injunction should not be issued as prayed for in the bill of complaint.

On the return of the rule, defendant filed his answer, and the court being otherwise engaged, referred the nearing on the return of the rule to master William M. Booth. The defendant offered oral testimony before the master in support of his answer and the master refused to hear any testimony on behalf of appellant (complainant) on the rule to show cause. The master recommended to the

court that the rule be discharged and the application for a temporary injunction be denied.

The master's first report to the court was not argued before the court, answer having been filed appellant at once (*i. e.*, December 8, 1902), filed its replication and moved the court for an order referring the cause to master in chancery William M. Booth, which was done (Rec., 101-102).

The parties and their counsel attended before said master on the 17th, 18th, 19th, 23rd, 28th and 30th days of December, A. D. 1902, and adduced certain oral and documentary evidence on behalf of the respective parties, which said documentary evidence, together with a full, true and correct transcript of the oral evidence, was filed by the master, together with his report in the office of the clerk of the court on January 6, 1903.

Before filing his said report the said master gave complainant's solicitor a copy of his said report, whereupon on the 5th day of January, 1903, the complainant, by its solicitor, filed twenty-six objections to said report with the master. The master sustained four of said objections and modified his draft report accordingly and overruled the other twenty-two objections filed with him, and he filed said objections with his said report (Rec., 108, 109, 110, 111). On January 9, 1903, the court below, on motion of appellant's (complainant's) solicitor, ordered that the objections taken before the master stand as exceptions before the court. (Rec., 158.)

On January 23, 1903, the court set the cause down for final hearing upon the master's report and appellant's (complainant's) exceptions to said report, and after argument overruled said exceptions, confirmed said report, and dismissed the bill of complaint for want of equity (Rec., 159).

On January 27, 1903, appellant (complainant) filed its petiton for appeal from the decree and order of court entered January 23, 1903, to this court and on same day filed its assignment of errors and appeal bond, whereupon the court ordered and adjudged that appellant (complainant) be allowed its appeal from said decree to this court (Rec., 160, 161).

In preparing the transcript of record for the appeal in this cause counsel for both parties abstracted the oral testimony taken before the master and eliminated all duplicate documentary evidence so as not to make the record cumbersome, and at the same time present to this court all the material evidence, both oral and documentary, which is essential or at all material to the determination of the question which the record in the court below or in this court presents for judicial determination.

The stipulation as to abstracting the testimony was entered into between Mr. Bethea, United States district attorney and the writer (Rec., 113).

The abstract of the testimony will be found in the record from pages 114 to 158; it, together with the stipulation, were filed in the office of the clerk of the Circuit Court for the Northern District of Iilinois, on February 19, 1903.

On February 20, 1903, the clerk of said court certified under his hand and seal of the court the transcript of record as per praecipe filed with him, which said transcript of record was filed in the office of the clerk of this court on the 24th day of February, A. D. 1903.

JudgeKohlsaat did not file a written opinion with the clerk of the court below.

ASSIGNMENT OF ERRORS.

First. The court erred in not adjudging that the statutes in question were unconstitutional and void.

Second. The court erred in overruling the complainant's exceptions to the report of William M. Booth, master in chancery, to the court.

Third. The court erred in ordering and adjudging that the report of said master in chancery to the court be confirmed.

Fourth. The court erred in refusing and denying to the complainant an injunction as prayed for in the bill of complaint.

Fifth. The court erred in dismissing the complainant's bill of complaint for want of equity. (Rec., 160.)

SPECIFICATION OF ERRORS.

The following are the exceptions to the report of the master in chancery, upon which appellant relies and will particularly urge before this court:

Exception Sixth. For that said master erred in the sixth paragraph of his report in finding, "then follows a table showing that if the league grows at the rate of fifteen to one, the total realization, etc., and also if the growth is at the rate of ten to one, he will receive $600, etc." The master should have found that then follows a table showing that if the league grows at the rate of fifteen to one (for five years) the total realization, etc., and if the rate of growth is ten to one (for five years) he will receive $600, etc., which was overruled by the court.

Exception Eighth. For that said master erred in finding in said section "that the said plan contains all the ele-

ments of a lottery; there is the small payments to be made, the chance of a large prize or winning in return; there is uncertainty as to what amount that prize will be, *and there is a certainty that there will be many blanks drawn.*" The said finding is contrary to the evidence and the weight of evidence and also because there is no evidence that there will be any blanks drawn whatsoever, which was overruled by the court.

Exception Tenth. For that said master erred in finding that "because the literature of the league does not promise any definite amount or ratio of profit to its members, it therefore emphasizes the lottery feature of the plan," which was overruled by the court.

Exception Eleventh. For that said master erred in finding in said seventh paragraph of his said report that the scheme is as utterly a gambling one, as utterly dependent upon chance, as the question whether a roulette ball will fall on the 'red' or 'black' or any specific number, and thus pay the gambler little or nothing, according to his luck. The mere fact that the personnel of the prize drawer is not left to chance does not appear to remove the lottery feature, which was overruled by the court.

Exception Twelfth. For that said master erred in finding in said seventh paragraph of his said report "that the only difference between this and the ordinary lottery is that in the ordinary lottery the amount of the prize is fixed in advance and the prize drawers are determined by lot, whereas in this plan, the prize drawers are determined in advance and the amounts of the prizes are settled by lot or chance. There appears to be no difference in principle;" which was overruled by the court.

Exception Fourteenth. For that said master erred in finding in the eighth paragraph of the said report that

there is a certainty that the end must come some time, and that when the end does come, substantially all who have joined and paid their money during the last four years of the existence of the league will lose absolutely all they have paid in, which was overruled by the court.

Exception Fifteenth. For that said master erred in finding in the ninth paragraph of his said report that the said plan or scheme may be characterized as *malum prohibitum,* which was overruled by the court.

Exception Sixteenth. For that said master erred in finding in the tenth paragraph of his said report that the recent case of *The American School of Magnetic Healing* v. *McAnnulty,* did not overrule the decisions of the courts in prior cases, but that it merely decided that in that case the postmaster general acted outside of his authority under those statutes, which was overruled by the court.

Exception Seventeenth. For that said master erred in all of his findings contained in the thirteenth paragraph of his said report, which was overruled by the court.

Exception Eighteenth. For that said master erred in finding that there was no decision of the courts holding that where the postmaster general has acted under the statutes referred to in the matter clearly within the scope of those statutes, the court may interfere with his action, but many to the contrary effect, which was overruled by the court.

Exception Nineteenth. For that said master erred in finding in the fourteenth parargraph of his said report that the issuing of the fraud order in question was fully justified by the facts, which was overruled by the court.

Exception Twentieth. For that said master erred in finding and recommending that the injunction prayed for in the bill be denied, which was overruled by the court.

Exception Twenty-fourth. For that said master erred in finding that the plan and system of co-operation as applied by the League of Equity, clearing through the complainant, The Public Clearing House, is a lottery and has all the elements of a lottery because said evidence and the findings of the said master show that said plan and system do not contain any of the elements of a lottery, and is not in fact or in law a lottery in any legal sense of that term, nor does it contain any elements of chance set forth in the statutes referred to in the bill of complaint, which was overruled by the court.

Exception Twenty-fifth. For that said master erred in not finding that the statutes set out in the bill of complaint are unconstitutional and void, which was overruled by the court.

Exception Twenty-sixth. For that said master erred in excluding evidence offered by the complainant tending to prove that G. A. F. Christiancy, acting assistant attorney general for the post-office department, had stated "that there is not any element of lottery or chance in complainant's plan," which was overruled by the court.

The appellant does not waive any of the exceptions not above specified, which were overruled by the court below, but does not think they should be argued in this court as they do not go to the merits of the questions to be decided in this court.

The Facts as Alleged in the Bill and Proven on the Trial.

The facts in this case are those alleged in the bill of complaint, which were either proven by oral testimony or admitted by the answer of appellee, and are as follows:

The appellant is an Illinois corporation conducting its business at 184 La Salle street, in the City of Chicago, Illinois; that the objects and purposes for which it was incorporated as provided by its articles of incorporation, "Is to do a general brokerage and commission business, to collect and disburse money, to conduct an exchange and information bureau for patrons, and to act as agent for the aforesaid objects and purposes."

That it had proceeded with the conduct of its said business and had, prior to November 13, 1902, been receiving in the ordinary course of the mail a large number of sealed letters, registered letters, packages and packets and general mail matter addressed to it by its correspondents and patrons and also by the members of a *purely mutual society* known by the name of "The League of Equity," and that all the aforesaid mail matter had been, prior to said date, promptly and with dispatch delivered to appellant at its said office by appellee, or his assistants, as postmaster of said City of Chicago, who was duly qualified and acting postmaster of the United States post-office at said City of Chicago, and that as such postmaster he had during all said time under the postal laws and postal regulations of the United States full control of and supervision over the receipt and delivery of all mail matter at said City of Chicago.

That it was the duty of appellee as such postmaster to deliver to appellant all mail matter addressed to appellant and received at said post-office by appellee, and it was

alleged that appellee wholly in disregard of his official duty and in violation thereof and of the rights of appellant refused to deliver to it any such mail matter, but arbitrarily, wrongfully and without notice to appellant, either before or after the seizure and detention of said mail matter as it was received from day to day, wholly refused and still refuses to deliver said mail matter to appellant or its agents.

It was further alleged and proven that said mail matter so seized and detained by appellee contained post-office money orders, express companies' money orders, bank drafts and currency, which was being remitted to appellant by its patrons and by the various members of the League of Equity, and which said patrons and members of the League of Equity were and still are desirous of having delivered by appellee to appellant, and that by such interference appellant would be irreparably injured and absolutely ruined in its business by reason of being wholly deprived of its right to the use of the post-office establishment of the United States for any purpose whatever since the 13th day of November, A. D. 1902.

It was further alleged and proven that C. Franklin Davis and Martin J. Baxman, copartners as the board of managers of the League of Educators had been for more than three years then last past engaged in a similar business of acting as clearing house for a purely mutual voluntary society known as the League of Educators, with the same basic principle as underlies the operation and system of co-operation by the League of Equity, and that as such clearing house they had accumulated a large number of mail list cards, people's addresses, records, books and papers which were of great value to appellant in the conduct of its business and which it purchased from said

Davis and Baxman for use in its business of acting as fiscal agent and clearing house for said society known as the League of Equity.

It was then alleged in the bill of complaint and proven beyond all controversy that "Said persons are organized as a purely mutual, voluntary, co-operative society known as the League of Equity, and who were and are appointing your orator their fiscal agent and clearing house to act for them on their behalf during the period of co-operation of said co-operators who were and are co-operating with one another in a purely mutual way in strict accordance with the terms and conditions of the application for the co-operator's agreement and the agreement itself, a copy of which application was and is as follows:

Application for Co-operator's Agreement in the League of Equity Formed for Mutual Benefit of True Co-operators.

I herewith enclose three dollars ($3) and apply for the co-operator's agreement in the League of Equity.

1. My full name is .....

(Be sure and prefix your name with Mrs. or Miss as the case may be.)

2. My age is ..... yrs.

3. My permanent address where notices are to be sent is St. and No. .....
Town .....,
County ....., State .....

DECLARATION.

I warrant the above statement to be true and complete, and I agree to co-operate faithfully according to the terms of the co-operator's agreement, and hereby authorize and empower the public clearing house to act as my agent in this behalf.

Signature of applicant .....
Dated at ..... this ..... day of
....., 190..
Recommended by .....
Recommender's No. ..... Address .....

Address all communications to The Public Clearing House (Incorporated), 184 La Salle Street, Chicago, Ill., C. Franklin Davis, Pres., Martin J. Baxman, Secy. and Treas."

A copy of which said co-operator's agreement was and is as follows:

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

It was further alleged and proven that the co-operators of the League of Equity had been and still were co-operating with one another strictly in accordance with the terms of the aforesaid application and agreement and not otherwise.

The manner in which this society known as the League of Equity operated and carried on its system of purely mutual co-operation was that each of the members when he or she joined the society, each promised the other members that he or she would fully comply with the terms of the aforesaid agreement, and that in order to do so had appointed appellant their fiscal agent and clearing house to act for them, keep their records, issue literature and notifications to members, receive their monthly dues, and to pay same out each month *pro rata* among the members for whom the dues had been paid in, and generally to conduct their office business for them, retaining for its services ten per cent. of the amount collected, and also receiving $3 as enrollment fee.

The plan and system of co-operation as shown beyond all controversy on the hearing, and as found by the court below, shows that people were not induced to join by reason of any false or fraudulent pretenses, representations and promises made to them by appellant or its officers or agents, but that full opportunity was given to them to become fully conversant with the details and workings of the league's system. (Rec., top p. 107.)

The plan and system of co-operation is simply a self-adjusting, co-operative system which is controlled entirely and solely by the "will" of the co-operators, all depending upon their carrying out the terms of their agreement to co-operate with one another, using their energies to obtain new co-operators and pay their monthly stipulated

sum of $1 for the benefit of their fellow-being who had been or still is a member and who had fully complied with all the terms of said agreement. In other words, it is a purely mutual, voluntary society of people throughout the country who have joined hands for the purpose of helping one another, and who render all the co-operative work or service in securing new co-operators, and who are to realize in accordance with the terms of the ordinary causation table, set forth in the said agreement. The system being controlled by the "wills" of the co-operators, the amount of their realization or gain will be whatever they make it themselves by reason of their work or service in securing new co-operators as is shown in the ordinary causation and realization table, set forth in the agreement. Their period of co-operation is five years, but those desiring to receive part of their realization in one year may do so by securing new co-operators (Agreement, Sec. 4, Rec., 96), or, in other words, it is simply a purely mutual, voluntary society of people throughout the United States and Canada who have joined together for the purpose of helping one another in this life; and the members of this society have each promised the other that they would faithfully and honestly comply with all the terms of the co-operator's agreement above set forth. The system itself is simply an automatic, self-adjusting, co-operative one which is controlled entirely and solely by all the members, all depending upon each other to fulfill the terms of the aforesaid agreement, all working and using their best endeavors to honestly induce others to join with them in order that their realization may be as large as possible.

As will be seen by the terms of the aforesaid agreement, each member joining pays an enrollment fee of $3, and agrees to pay the sum of $1 each month for sixty months or five years, which said $1 so paid is for the benefit of

some of their fellow co-operators who have been or still are members a sufficient length of time and have complied with the terms of said agreement

The $1 so paid in each month is paid to appellant as the fiscal agent and clearing house for all the members. Its duty is to receive same and keep an accurate account of each individual co-operator's payments and the work and service he or she has performed, and after each month's payments are at its office to divide once each month the total amount received equally among the members for whom it was paid, retaining ten per cent. for its services, office rent, clerk hire, etc.

The appellant published monthly a magazine, called the "Vigilant," and the names of the members who were to realize that month were published therein so that each co-operator, when paying his or her $1 that month, knew precisely for whom it was paid (as will be seen on pages 82 and 83 of record).

The difference between the amount paid by a member and the amount realized by him at the end of his period of co-operation is the ratio of growth, which growth is produced by the service and work of all in securing new members, as is shown by the Ordinary Causation Table, and is fully explained by the witnesses Davis, Runck, Walter and Higgins. (Rec., 114-136 and 157.)

The system being absolutely controlled by the members, the amount of their realization or the gain, if any, will be whatever they make it themselves by reason of their work in securing new co-operators

There is not a promise of any kind made by appellant as to what a member will realize. The only promise made by appellant is that it will accurately do the clerical work for the members, receive and honestly disburse to the

realizing members the money paid in each month, and do all in its power to help increase the membership.

It was further shown that in order to successfully carry on its business of acting as fiscal agent and clearing house for the co-operators of the League of Equity and to transact its other business, it was absolutely necessary for appellant to have the uninterrupted use of the United States mails, and that it had been wholly denied and deprived of its rights and privileges of using the United States mails or post-office at Chicago, Illinois, for any purpose whatever since the 13th day of November, 1902, and that thereby it was greatly damaged and injured and its business ruined unless the action of the postmaster at Chicago was enjoined by order and injunction of the court.

It was further alleged and proved that appellee in his official capacity as such postmaster, based his action for interference and denial to the appellant of the ordinary postal facilities and in barring it from the mails since the 13th day of November, 1902, upon an order issued under and by virtue of Sections 3929 and 4041 Revised Statutes of the United States as amended, which order was in words and figures following, to wit:

"ORDER NO. 1267.

POST OFFICE DEPARTMENT.

WASHINGTON, D. C., Nov. 10, 1902.

It having been made to appear upon presentation to the Postmaster General, upon evidence satisfactory to him that the League of Equity and the Public Clearing House and their officers and agents in their capacity as such, at Chicago, Illinois, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations or promises in violation of an Act of Congress entitled: 'An act

to amend certain sections of the Revised Statutes relating to lotteries and for other purposes,' approved September 19, 1890.

Now, therefore, by authority vested in him by said act, and by the Act of Congress, entitled: 'An act for the suppression of lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States,' approved March 2, 1895. The Postmaster General, hereby forbids you to pay any postal money order drawn to the order of said concerns, or to the officers or agents as such, and you are hereby directed to inform the remitter of any such postal money order that payment thereof has been forbidden, and that the amount thereof will be returned upon presentation of a duplicate money order applied for and obtained under the regulations of the department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to such concerns or to their officers or agents as such, to postmasters at the office at which they were originally mailed to be delivered to the sender thereof, with the word 'fraudulent,' plainly written or stamped upon the outside of such letters or matter, provided, however, *then* where there is nothing to indicate who are the senders of letters not registered or other matter, you are directed in that case to send such letters or matter at your office with the word 'fraudulent,' plainly written or stamped thereon, and disposed of as other dead matter under the laws and regulations applicable thereto.

(Signed) H. C. PAYNE,
Postmaster General.

To the postmaster, Chicago, Illinois."

And that said appellee gave as his sole and only excuse for interfering with the appellant's mail was by reason of his receipt on the 13th day of November, 1902, of the aforesaid order, and that he stated he would continue to deny to appellant the use of the post-office facilities

and obey the said order until it was revoked by the Postmaster General.

It was further alleged in the bill of complaint that appellant was not in any manner in the conduct of its business and in receiving mail and the use of the United States Post-Office aforesaid in any manner whatsoever violating said Sections 3929 and 4041 Revised Statutes, passed September 19, 1890, and Section 4 of an Act approved March 2, 1895, which said statutes are as follows:

> "Section 3929 of the Statutes of 1890, Chapter 908, Section 2:
>
> The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift, enterprise, or scheme, for the distribution of money, or of any real or personal property by lot, chance or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, instruct postmaster at any post-office at which registered letters arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation or association of any kind to return all such registered letters to the postmaster at the office at which they were originally mailed with the word 'fraudulent,' plainly written or stamped upon the outside thereof, and all such letters so returned to such postmaster shall be by them returned to the writers thereof, under such regulations as the Postmaster General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift, enterprise, scheme or device that remittance for same may be made by

registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be *prima facie* evidence of the existence of such agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of such agency in any other legal way satisfactory to himself."

"Section 4041 of the Statutes of 1890, Chapter 908, Section 2:

The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift, enterprise, or scheme, for the distribution of money, or of any real or personal property by lot, chance or drawing of any kind, or that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, forbids the payment by any postmaster to the said person or company of any postal money orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money orders, but this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift, enterprise, scheme or device, that the remittance for the same may be made by means of postal money orders to any other person, firm, bank, corporation or association named therein, shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of any such agency in any other legal way."

"Section 4. That the powers conferred on the Postmaster General by the Statutes of 1890, Chapter 908, Section 2, are hereby extended and made applicable to all letters or other matter sent by mail.

Approved, March 2, 1895."

Appellant alleged in its bill of complaint that it was not engaged in any lottery, so-called gift, concert or similar enterprise offering prizes dependent upon lot or chance, or concerning schemes devised for the purpose of obtaining money or property under false or fraudulent pretenses, representations or promises of any kind, and had not in any manner or form violated any of the Postal Laws or Postal Regulations of the United States; and further alleged and proved that all such mail matter coming into the possession of appellee as postmaster were properly stamped and in all things complied with the Postal Laws and Regulations, and were mailable matter under said Laws and Regulations, and did not in any mannner pertain to anything prohibited by said statutes.

It was further alleged and proven that said mail matter contained checks, drafts, money and money orders of the United States, payable to it or its officers or agents as such for the express purpose of acting as fiscal agent and clearing house for the co-operators in the League of Equity.

It was further alleged and proven that on November 13, A. D. 1902, about five thousand persons throughout the United States and Canada signed the aforesaid application for membership and had appointed appellant the fiscal agent and clearing house to act for them in the manner above set forth, and that the said mail had also contained letters ordering merchandise which had been advertised by it for sale as broker and commission agent, and also contained mail matter concerning exchange of merchandise and chattels through its medium.

It was also alleged and proven at the trial that the aforesaid order was issued by the postmaster general against it without any hearing by or on its behalf, and

without any investigation of any kind by the post-office department relative to the business conducted by it; and it is charged and alleged upon information and belief that the order was issued by said postmaster general without any evidence being placed before him for his consideration relative to its business, and that the said order was issued absolutely upon the recommendation of one, G. A. F. Christiancy, who claimed to be acting assistant attorney general for the post-office department (and who has since been compelled by reason of the post-office investigation to resign his position.)

It was further alleged that the said Christiancy had said that there was not any element of lottery or chance in the plan and system of co-operation, and that appellant's officers and agents had not been guilty of any fraud or fraudulent practice, but that he would hold the plan and system of co-operation was a fraud upon its face and would not finance out, and, therefore, he would cause a fraud order to be issued by the postmaster general. Evidence to prove this allegation was offered at the hearing before the master, but was not admitted, to which ruling appellant assigns error.

Appellant alleged and still claims that the aforesaid sections of the United States Statute are in violation of the 4th, 5th and 14th Amendments of the Constitution of the United States, and that they undertake to deprive persons of property, and if enforced do deprive persons of property and property rights without due process of law, and attempts to place in the power of the postmasters of the United States and of the post-office department the sole and exclusive right to pass upon appellant's rights as between itself and other parties with whom it deals and transacts business through the mails, without a hearing; and that the said statutes are void for the

reason that they provide for no tribunal, court or authority to hear and determine any violation of the statutes or any claimed violation of the statutes, but place the same absolutely in the power and control of postmasters and the post-office department, and they attempt to vest an arbitrary discretion in the postmasters and post-office department to determine for themselves as they see fit, whether right or wrong, the question as to who shall and who shall not have and receive mail matter from the United States post-office department, and vests in them the power, if enforced, to interdict and absolutely prohibit the carrying on of all commercial and business transactions of the country done through the mailing systems, if they see fit to do so, and makes the postmasters and post-office department the sole judges in their own case.

It was conclusively proven on the trial that the statements made in the literature issued by appellant and its predecessors to the effect that the books of account and all vouchers were open for inspection by the members or co-operators at any time were true, and when the post-office inspectors appeared at the office of the board of managers of the League of Educators in September, 1902, they were afforded every facility to make a thorough examination, and every book, document, paper, check book or voucher asked for by these inspectors was delivered to them, and when they left the office they stated to the board of managers that they had afforded them every facility in making the examination. (Rec., 117, 118.)

The bill prayed for process and for writ of injunction against appellee in his official capacity as postmaster of Chicago, Illinois, enjoining and prohibiting him from

carrying out the terms of said fraud order and from interfering or tampering with appellant's mail, except to deliver it in the ordinary course of delivery; and also prays for all other and proper relief which to the court may seem meet and proper, and which equity shall require to the end that complete justice may be done.

POINTS IN BRIEF.

I.

The appellant challenges the constitutionality of the statutes above set forth, which authorize the postmaster general "upon evidence satisfactory to him," and which do not provide for any trial, hearing or inquiry of any kind, to arbitrarily seize the honest mail of any citizen of the United States as alleged in the bill, and to interdict and prohibit its receiving any mail, to destroy its business, and its property and property rights, and to subject its papers and sealed packets to unreasonable searches and seizures.

4th Amendment to Constitution.

5th Amendment to Constitution.

14th Amendment to Constitution.

Sec. 8 of Article 1 of the Constitution.

Chicago, M. & St. P. Ry. Co. v. *Minnesota,* 134 U. S., 418.

Boyd v. *United States,* 116 U. S., 616.

Murray's Lessees, 18 Howard, 276.

In re Zeibold, 19 Rep., U. S. C., 746.

Palairets Appeal, 67 Pa., 49.

Hoover v. *McChesney,* 81 Fed. Rep., 472.

Fairfield Floral Co. v. *Bradbury,* 87 Fed. Rep., 411.

United States v. *Rider,* 50 Fed. Rep., 406.

United States v. *Keokuk & H. B. Co.,* 45 Fed. Rep., 178.

(And the recent case) *American School of Magnetic Healing* v. *McAnnulty,* 187 U. S., p. 94.

II.

I make the point that because the master and the court confirming his report have found that appellant, its officers and agents "have not been guilty of making false or fraudulent misrepresentations in order to induce persons to become members of the league, but that full opportunity has been given for all persons to become fully conversant with the details and workings of the league's system." Rec., 107.

And the order denying appellant the use of the post-office establishment, reciting:

> "That the postmaster general, upon evidence satisfactory to him that the League of Equity and the Public Clearing House, and their officers and agents in their capacity as such, at Chicago, Illinois, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations or promises, etc."

And said order having been issued against appellant, forbidding it the use of the mails on the ground of fraud, not having been sustained by the evidence, that the court should have granted to appellant the injunction prayed for, for the reason that the postmaster general in issuing the "fraud order" has acted outside of his authority under these statutes.

> *American School of Magnetic Healing* v. *McAnnulty,* Vol. 187, pp. 94-111, U. S. Supreme Ct. Rep.

III.

I make the point that even if these statutes are constitutional, yet the appellant corporation, from the facts as proven at the trial and found by the court, is not as a matter of law, engaged "in conducting any lottery, gift enterprise or scheme for the distribution of money or of any real or personal property, by lot, chance or drawing of any kind" within the meaning of said statutes, and the postmaster general having assumed and exercised jurisdiction in a case not covered by said statutes, and having acted outside of the scope of the said statutes, the injunction prayed for should have been granted in any event.

Master's findings confirmed by the court, being paragraph 6 and that part of paragraph 7 down to "paid in by members," Rec., pp. 104-105.

Bouvier Law Dict.

Webster's Dict.

U. S. v. *Olney,* 1 Abb. (U. S.), 278; Deady (U. S.), 461.

Horner v. *U. S.,* 147 U. S., 458.

U. S. v. *Politzer,* 59 Fed. Rep., 276.

People v. *Elliott,* 74 Mich., 264; 16 Am. St. Rep., 640.

Ex parte Kameta, 36 Oregon, 251.

Meyer v. *State,* 112 Ga., 20.

State v. *Kansas Merc. Assn.,* 45 Kan., 231; 23 Am. St. Rep., 727.

State v. *Boneil,* 42 La. Ann., 1112; 21 Am. St. Rep., 413.

Barclay v. *Pearson* (1893), 2 Chy., 154.

Taylor v. *Smeaton,* 11 Q. B. D., 210.

State v. *Clark*, N. H., 335; 66 Am. Dec., 723. Quoted with approval in:

McDonald v. *U. S.*, 63 Fed. Rep., 426, affirming same case in 59 Fed. Rep., 565.

Lynch v. *Rosenthal*, 144 Ind., 90.

U. S. v. *Wallis*, 58 Fed. Rep., 942.

U. S. v. *Fulkerson*, 74 Fed. Rep., 627.

State v. *Interstate Investment Co.*, 60 N. E. Rep., 220.

Am. & Eng. Enc. of Law, Vol. 14, p. 600, 2nd Ed.

Dunn v. *People*, 40 Ill., 465.

Thomas v. *People*, 59 Ill., 160.

Elder v. *Chapman*, 176 Ill., 142, p. 150, overruling *Elder* v. *Chapman*, 70 Ill. App., 293.

Wilkinson v. *Gill*, 74 N. Y., 67; 30 Am. Rep., 264.

Attorney General's Opinions, Vol. 23, p. 263.

IV.

I make the further point that the appellee not having excepted to any of the findings of the master and the court, that the report of the said master, as confirmed by the court, is absolutely binding upon him and precludes appellee from now raising the question in this court as to the correctness of the finding of the postmaster general, set forth in the fraud order complained of.

V.

I make the further point that outside of the question of the constitutionality of the statutes challenged in this record, that on the merits there is only one question for the court to determine, and that is, whether or not, from the facts proven, was appellant, as a matter of law, engaged in conducting "a lottery, gift enterprise, or scheme for the distribution of money or of any real or personal property, by lot, chance or drawing of any kind" within the meaning of said statutes?

ARGUMENT.

The court below not having filed a written opinion in this case, nor did he at the close of the argument orally express any opinion in regard to the constitutionality of the statutes, further than to state that in his opinion they were constitutional; therefore, we shall in this argument have to look to the four corners of the master's report, which was confirmed by the court, for the reasons which governed the court in denying appellant the relief prayed for in its bill of complaint.

In preparing the bill of complaint we endeavored to fully and correctly state to the court all of the material facts which were necessary to a decision of the questions at issue in this record. The voluminous record in this cause is by reason of the defendant, when filing its answer to the bill, attached to the answer all of the literature, pamphlets, circulars and certificates which the predecessors of appellant had at any time ever issued.

In our opinion the entire questions at issue in this record could have been disposed of by a demurrer to the bill of complaint, for the reason that the question of the constitutionality of the statutes involved in this record were fully challenged in the bill; the merits of the case, that is, whether or not appellant was guilty of fraud or was carrying on a lottery, could be equally disposed of from the application and co-operator's agreement, which was also set forth in *haec verba* in the bill.

While appellant objected to the introduction of all of the literature attached to the defendant's answer, it did not strenuously insist upon its objection, for the reason

that, as it had nothing to conceal, it was willing that the whole matter should come before the court. In a further effort to save incumbering the record, the testimony which was very voluminous, taken before the master, was abstracted, and Mr. Bethea, United States district attorney, counsel for the defendant, consented and stipulated that the abstract of testimony which was filed with the clerk of the Circuit Court should be used in this appeal. Stipulation will be found in the record, page 113. With this explanation to the court, I will now proceed to argue the questions raised on this record as presented to this court on final disposition.

THE APPELLANT INSISTS THAT THE ABOVE STATUTES ARE UNCONSTITUTIONAL AND VOID, BECAUSE THEY VIOLATE THE 4TH AND 5TH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, READING AS FOLLOWS:

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

The master in his report claims that these statutes have been held constitutional by the courts, but I respectfully submit that in no well considered case have the courts held that these statutes are constitutional even inferentially.

The case which appellee relies upon as being decisive of this point is the case of the *Association* v. *Zumstein*, 67 Fed. Rep., p. 1000, which was a decision by the Circuit Court of Appeals for the Sixth Circuit, Judge Lurton delivering the opinion of the court. At the time that the decision of that case was rendered the statutes in question only related to registered letters and to payment of post-office money orders and did not cover or pretend to cover all mail matter as they do now by the Amendment of March 2, 1895.

In that case the court decided that the registered letter and money order system were privileges which could be granted or withheld at pleasure and that they were not a right, as was the case with all other mail matter. The constitutionality of those statutes was not raised or

argued in that case. The question argued before the court by appellant was whether or not the scheme or plan was within the inhibition of the statutes and the decision of the court was that the postmaster general, having passed on it and condemned it, the courts were powerless to review his decision. This also was the decision of Judge Thayer in the case of *American School of Magnetic Healing* v. *McAnnulty*, 102 Fed. Rep., 565, and he based his decision on the Zumstein case. But that case does not in any manner whatever pass upon the constitutionality of these statutes. The point that it did decide was overruled in the Supreme Court in the McAnnulty case on November 17, 1902, *supra*, viz.: That the postmaster general's action under those statutes is reviewable by the court, and the court reversed his decision and granted the appellants the injunction against the postmaster, as prayed. I contend and insist that the use of the mails is a right and not a privilege, and in the language of the Supreme Court in the McAnnulty case,

> "there letters contained, checks, drafts, money orders and money itself, all of which were their property as soon as they were deposited in the various post-offices for transmission by mail."

It seems to the writer to be almost elementary that the letters and packages deposited in the mails at once become the property of the addressee, and to seize and detain those letters or return them to the addressor or to the Dead Letter Office, to be treated as other dead matter, is to deprive the appellant of his property therein. But in any event whether a letter deposited in the mails is the property of the addressee or addressor, its seizure by the postmaster is in violation of the fourth amendment to the constitution against unreasonable search and seizure.

These statutes, if constitutional, place in the hands of an executive officer the absolute right to arbitrarily, without trial or legal evidence or any hearing of any kind by the party accused, prohibit him the use of the mail, no matter how innocent or moral may be the business, or how commendable may be his objects. A citizen may be thus deprived of an important right and his business destroyed, and this destruction of property and business of a citizen is begun and completed by a petty official in the post-office department; he privately hears the accusation, secretly examines the business advertisements and formulas of the individual or concern, and, without notice to the accused, with no opportunity to be heard, the individual or concern is condemned and sentenced to be deprived of his right to the mails, his business destroyed and his reputation defamed, and he is branded by the postmaster, on instructions from this official, as a fraud and a criminal, and all letters and communications sent to him by his friends, his relatives and business associates are stamped "business of addressee has been declared Fraudulent by order of Post-office Department," and his letters, thus stamped, are returned to the senders thereof, if known, and if not, they are sent to the Dead Letter Office, to be treated the same as other dead matter.

It will be said by the appellee that this power is not arbitrarily exercised by the department in this manner, and, although the officials of that department may have that power, it is never arbitrarily used. This is not so. The evidence in this case shows that it was exercised in that arbitrary and unlawful manner; the appellant was adjudged by the postmaster general, or rather by G. A. F. Christiancy, the acting assistant attorney general for the post-office department, to be guilty of obtaining

through the mails money or property by means of *false and fraudulent pretenses,* representations and promises. Yet the master and the court have found in this case, after a full hearing, that the appellant was not guilty of the charges adjudged against it by the postmaster general, or, more correctly speaking, said acting assistant attorney general.

Further than that, the *personal mail* of the writer, whose only interest in the appellant's business is that which an attorney has for his client's welfare, had been seized by the appellee, and he has been absolutely deprived of his right to the use of the mails, and all letters addressed to him had been seized and stamped fraudulent and his business through the mails has been destroyed and even his personal mail of his relatives and friends, addressed to him at his home, have been treated in the same unlawful and arbitrary manner, and the same fate has befallen the mail of both Mr. Davis and Mr. Baxman; even the mail addressed to them at their homes has been similarly treated, and this notwithstanding the fact that nowhere in any of the letters or literature does a single line appear requesting any of the appellant's patrons to send mail to them at their residences, nor do any of the patrons know their house addresses. The writer and his clients have been secretly accused and condemned and have been branded as criminals by the defendant, acting on the instructions of said official, and this was done without any kind of a notice or hearing, and we had no knowledge that we had been secretly accused and condemned until we learned that the sentence was being executed.

Never before in the history of this country have any such outrageous practices ever been committed by any person or official of the government under the pretense

of law and order, and by persons sworn to uphold the constitution and laws of this country. Even these statutes do not authorize any such unwarranted and unlawful actions. The statute makes the *quality of the mail matter deposited in the mail,* and not the *name* and *business* of the citizen, the test of whether that *matter is mailable.* And to condemn the citizen without notice, warning or hearing and without having first legally determined that he has committed an offense, is contrary to the spirit of our laws.

Whether a citizen has violated the law and incurred and must suffer the penalty attached, involving the forfeiture of a right and loss of property and reputation, which, but for the violation of that law, he might have continued to enjoy, is a *judicial,* and not a *legislative* or *administrative,* question.

Where the deprivation of a right as a penalty for an offense carries with it the confiscation or destruction of property and property rights, and such deprivation of right or privilege is inflicted as a penalty for a violation of law, the question whether the law has been violated and whether the citizen has incurred the penalty is a question for the *courts,* and not one that can be *legally determined* and the penalty inflicted by an administrative officer without notice and without a hearing.

Rights which belong to the citizen and property owned by him can be *taken away legally* only by "due process of law," and due process of law involves *notice* to the *accused* and an impartial *hearing* by a judicial tribunal established by the law of the land.

Murrays Lessees, 18 Howard, 276.
Taylor v. *Porter,* 4th Hill (N. Y.) Rept., 145.
Palairets Appeal, 67 Pa., 49.

The right to use the mails is one which belongs equally to every citizen.

The master found, and it is undenied, that the business of this company cannot be conducted without the use of the mails; nor is its business exceptional in that regard. Very few businesses can be successfully carried on in this age if deprived of the use of the mails. The *mails* and *business* are inseparably interwoven, bound up and blended; withhold the mails and business is destroyed. Upon the right to use the mails business and property interests depend. It is a truism that to destroy the usual and ordinary means necessary to conduct a business is in effect to destroy that business, and *business is property.* The rights and property of the citizen cannot *legally* be taken away or destroyed, or the enjoyment thereof abridged, without "due process of law," which means, "A law which hears before it condemns, proceeds upon inquiry and renders judgment only on trial."

The acts here complained of take away not a mere privilege, but destroys a *right,* and with it deprives the citizen of his property, without "due process of law."

The fraud order is said to be issued in the discretion of the postmaster general, *but it is in fact* issued by the acting assistant attorney general for the post-office department whenever he is satisfied that any citizen, company or concern is in any manner violating the provisions of the statutes herein set forth as *construed* by that official.

These acts have been declared unconstitutional by the courts in each case in which they have been challenged, and Judge Barr of the United States Circuit Court of Kentucky, in an elaborate and well reasoned decision, has

so declared them; so has Judge Putnam of the United States Circuit Court of Maine.

In the case of *Hoover* v. *McChesney*, 81 Fed. Rep., 472, Judge Barr said:

> "While the Supreme Court has thus indicated the general power of congress to determine what matter shall be excluded, it has not yet, we think, decided that congress has the power to delegate to any executive officer the power to determine the person or persons who shall be excluded from the right of sending or receiving mail by the postal service. If we understand the trend of the decision, it has not yet been decided that either congress or an executive officer has the right under this power to exclude any particular person or any class of persons, citizens of the United States, from the benefits arising from the use of the postal service of the United States."

Further in the opinion he says:

> "If we are correct in concluding that the use of the postal service of the United States by a citizen thereof is a right in the nature of a property right, then it must follow that the order of the 17th of February, 1896, of the postmaster general (fraud order), which finds complainant guilty of a violation of the postal laws and prohibits to him the use of the postal service of the United States as far as the receiving of mail is concerned during his pleasure, is not due process of law within the constitutional meaning. In this connection we think that the fourth amendment to the constitution is also applicable, which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure shall not be violated, etc."

And further:

> "Whether we regard these letters, which were sent through the mail properly addressed and in the hands of the defendant as belonging to the sender or to the complainant to whom they were sent, they

should be and are constitutionally equally exempt from seizure except under the provisions of the constitution. When, therefore, sealed letters and packages were seized by the defendant under the order of February 17, 1896, without warrant and marked "fraudulent" and returned to the dead letter office, to be there disposed of as other dead matter under the laws and regulations, we submit that this provision of the constitution has been violated."

And again the learned judge says:

"We fully recognize that the court in taking jurisdiction is not asked whether to compel by mandatory injunction or by restraining order the performance of a ministerial duty. We fully recognize the settled doctrine, as announced in the case of *Gaines* v. *Thompson*, 7th Wall., 347, and the various other cases therein reviewed, and since that time, as well as the authority of the case of *Enterprise Sav. Ass'n* v. *Zumstein*, 15 CC., 153, 67th Fed., 1000. But we, however, submit that, if correct in our view, *congress had no constitutional rights to give to the postmaster general the authority thus to prohibit to a citizen of the United States without notice and without trial the use of the postal service of the United States at his pleasure because he became satisfied that that citizen had been or was engaged in conducting a lottery or similar enterprise.*"

As was said by counsel for appellant in his brief in the McAnnulty case before this court:

"This case, in our judgment, is the most exhaustive one on the subject, and reviews and harmonizes with every other case affecting this question, and holds that these sections of the statute which give the postmaster general or any other postmaster the right to arbitrarily hold up, interdict and prohibit without notice, hearing or opportunity for hearing, the delivery of proper and honest mail to any citizen of the United States, violates both the fourth and fifth amendments of the Constitution of the United States. The fourth amendment, because of the fact that it permits the absolute seizure and taking away

of the mail of the citizen and of his property right thereto, without warrant, without trial, without hearing, upon the motion of the postmaster general, arbitrarily and of his own volition. And that it violates the fifth amendment of the constitution, because it is taking the property and property right of the citizen without due process of law, and also holds, as we contend, that the right of the citizen to the use of the mails is a property right, and that the letter or package which is put into the United States post-office, duly sealed, becomes the property of the citizen. Indeed, it would be idle, in our judgment, to argue that mail matter, when deposited in the post-office, directed to the party, was not his property and a property right. There is certainly in this case and under these facts a seizure of the mail, because instead of delivering it to the complainants it is returned by the defendant, the postmaster, to the dead letter office there to be opened and destroyed or otherwise disposed of as the post-office department might order. And these letters deposited in the post-office and retained in the postmaster's office at Chicago, Illinois, contained money, drafts, checks, as well as written information and these certainly were the property of the complainants and certainly constituted such property and property rights as come within the protection of the fifth amendment to the constitution of the United States, which provides that no party shall be deprived of his property without due process of law."

And in the case of *Fairfield Floral Co.* v. *Bradbury*, 87 Fed. Rep., 415, Circuit Judge PUTNAM said:

"If I were free to follow my own judgment I should say that Congress neither directly nor through the postmaster general or anyone else, has any constitutional authority to impose the penalty of forfeiture of the use of the mails of the United States, at least without a trial. But I am not sure that I will be able to follow my own convictions in this case even though in a final hearing they remain as they now stand. I am not sure that I will not be bound by the decisions of the Court of Appeals in

> the Sixth Circuit, *Association* v. *Zumstein*, 67th Fed. Rep., 1000, when the case comes to a final hearing. My own view is that the decisions of the Court of Appeals in our circuit should ordinarily be followed quite implicitly by the courts in other circuits. The case in the Sixth Circuit does not seem to have been taken to the Supreme Court. I cannot find anything to indicate that it was taken up by writ of error or otherwise and it seems to have been left on the decision of the Court of Appeals so that it stands today the highest judicial authority which we have on the validity of the statute."

Judge Putnam did not refer to the decision of Judge Barr presumably for the reason it was not called to his attention.

The case of *Hoover* v. *McChesney* arose out of a fraud order issued against the mail of the Southern Mutual Investment Company of Lexington, Kentucky; after the announcement of that decision the department revoked the fraud order and that company is still conducting its business which in its underlying principles of depending upon the co-operation of its members in producing growth is the same as that of the appellant; it is no suggestion of weakness that an organization has to be largely dependent upon growth for success; in fact every business enterprise is thus dependent.

I respectfully submit that this court in the case of *C., M. & St. P. Ry.* v. *Minnesota*, 134 U. S., 418, which must of necessity determine this case in favor of my contention found similar acts of a state legislature unconstitutional. That was a case that went up from the Supreme Court of Minnesota. The state legislature had enacted a law to regulate common carriers and creating warehouse and railroad commissioners for that state who

had powers under the act to fix tariffs and charges and could compel common carriers to change their tariffs and adopt such as the commissioners should declare equal and reasonable. Complaint was filed with the commissioners that the railroad company had fixed unreasonable charges and asked the commissioners to change same and adopt rates under the Minnesota Statutes and the commissioners endeavored to have the railroad heed the complaint The company would not yield. Thereupon the commissioners undertook to fix rates and the company refused to comply, whereupon the attorney general applied for a writ of mandamus to compel the company to comply with the rates fixed by the commissioners.

The railroad company replied to the writ by setting up that it was not competent for the legislature to delegate to a commissioner a power fixing rates for transportation, and in so far as it attempted to do so, it was void under the constitution, in that it deprived the company of its property without due process of law in violation of the constitution of the United States. The State Supreme Court decided against the railroad company and the case was taken to this court. This court accepted the State Supreme Court construction of the statute which was in effect that the rates being fixed by the commissioners there was no power in the court to stay the hands of the commissioners or interfere with it, and in a proceeding for mandamus there was no fact to traverse except the violation of the rates fixed by the commissioners.

This court accepting this construction, said:

> "This being the construction of the statute by which we are bound in considering the present case, we are of the opinion that so construed it conflicts with the constitution of the United States in the

particulars complained of by the railroad company. It deprives the company of its right to a general investigation by due process of law under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy and substitutes therefor, as an absolute finality the action of a railroad commission, which in view of the power conceded to it by the state court cannot be regarded as clothed with judicial functions or possessing the machinery of a court of justice."

This court then further said:

"No hearing is provided for, no summons or notice to the company before the commission has found what it is to find and declared what it is to declare. No opportunity provided for the company to introduce witnesses before the commission; in fact, nothing which has the semblance of due process of law. And although in the present case it appears that prior to the decision of the commission the company appeared before it by its agents and the commission investigated the rates charged by the company for transporting milk, yet it does not appear what the character of the investigation was or how the result was arrived at."

And again further says:

"If the company is deprived of the power of charging reasonable rates for the use of its property and such deprivation takes place in the absence of an investigation by judicial machinery it is deprived of the lawful use of its property and thus in substance and in fact of the property itself without due process of law and in violation of the constitution of the United States and in so far as it is thus deprived while other persons are permitted to receive reasonable profits upon their invested capital, the company is deprived of the equal protection of the laws."

Applying this case to the case at bar what do we find? A postmaster general without any inquiry whatever,

without hearing, trial or notice and "upon evidence satisfactory to himself" and without any course of law being provided whereby he could ascertain whether the evidence upon which he is to act is true or false, he proceeds arbitrarily to interdict and deprive the appellant of any use of the mails and to seize all letters addressed to it or to its officers or agents no matter what the letters contained, be they business, social or friendly or containing valuable property or valuable information concerning property or property interests upon receipt of information contained in the letter it might become necessary for the addresses to act promptly in order to save valuable property.

If these statutes are valid they authorize the branding of all mail fraudulent, whether it is or not and no remedy of any kind is provided by the statutes for inquiry into the fact ever afterwards.

The postmaster general or rather an acting assistant attorney general is made the sole judge in the case.

As the court said in the railroad case so we may say in this:

> "No hearing is provided for, no summons or notice to the complainants before the postmaster general has found what he is to find and declared what he is to declare. No opportunity provided for the complainants to introduce witnesses before the department, in fact nothing which has the semblance of due process of law."

Our contention is further supported by the cases of

United States v. *Rider*, 50 Fed. Rep., 406.

United States v. *Keokuk & H. B. Co.*, 45 Fed. Rep., 178.

The master endeavored to avoid the force of my contention on this point by contending that a letter deposited

in the mail does not become *ipso facto* the property of the addressee.

He argues that

> "the power to determine what is and what is not to be allowed in the mails must be lodged somewhere; otherwise the mails might be filled with dangerous explosives, corrosive acids, vile and obscene literature, matter infected with disease and all sorts of injurious and improper articles."

Congress has enacted that explosives, corrosive acids and such matter and things shall not be received into the mails, and therefore if they are deposited in a post-office unlawfully they are not considered as having been received into the mails. They are not excluded from the mails because they are evil in themselves but because of the danger to the other mail matter.

The explosive, corrosive acids, etc., set forth in the master's report are in themselves non-mailable. A mere inspection of the article itself determines the question of whether or not it is mailable, but letters, registered letters, post-office money orders and other general mail matter addressed to a person or corporation carrying on business, may or may not come within the prohibition of the fraud and lottery sections of the statutes.

No official or employee of the post-office department can tell from the outward appearance of a letter whether or not it contains matter concerning a lottery or contains matter endeavoring to obtain money from the addressee by fraud.

Congress has provided for the punishment of any person or officers of corporations who conduct any business concerning a lottery or endeavor to obtain money through the mails by fraud, by enacting Section 3894 Revised Statutes of the United States, which provides for any

violation of the said section, "a fine of not more than $500, or by imprisonment of not more than one year, or by both such fine and imprisonment for each offense." It also provides they should be "proceeded against by information or indictment and tried and punished either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereon, or at which it is caused to be delivered by mail to the person to whom it is addressed."

If appellant was guilty as charged by the postmaster general, then the effective remedy to punish for past offenses and to prevent future offenses would have been by indictment or information under aforesaid statute; but the officials at that time in charge of the post-office department at Washington did not see fit to proceed under this section, but proceeded under the other two sections already quoted and challenged as being unconstitutional. It is by reason of this unwarranted power and authority granted to the postmaster general, who being too busy himself with other matters delegates his authority to a subordinate, that considerable of the recent post-office scandal has arisen.

In the case at bar, after appellant had gone into a court of equity and filed its bill of complaint in this case and had obtained a rule upon the postmaster, the appellee, to show cause why the injunction should not be issued, and upon the return of the rule and hearing before the master, the witness, Haze Morgan, from Washington and other post-office inspectors appeared in Chicago, took out information against the officers of appellant and had them arrested during the hearing in the master's office. Had appellant through its officers quietly submitted to the fraud order challenged in this case there

would not have been criminal proceedings instituted and then quietly dropped without even a presentment to the grand jury, which was done when said petty officials ascertained that appellant, by its officers, would not withdraw its bill of complaint but was determined to fight for its rights even unto this Honorable court. While this is not in the record in this case, it is of record in the United States Court in the Northern District of Illinois, and arose out of this case, and I cite same to this court for the purpose of showing the statutes which give such arbitrary power to officials as these sections of the statutes do, absolutely contravene the letter and the spirit of the constitution of the United States which was framed for the purpose of protecting the civil and personal liberties of all of its citizens. I might go on and cite numerous other instances of oppression, persecution and ruination of legitimate businesses brought about under these arbitrary sections of the statutes challenged in this case.

Any person, company or concern carrying on its legitimate business and depending principally upon the mails and the use of the post-office establishment of the United States can in a moment by the action of a petty official in the post-office department have its business ruined and be powerless to help itself.

Section 3894 is the criminal statute levelled against the identical abuses of the mails as are provided in Sections 3929 and 4041, and provides ample protection to the post-office establishment to see that the mails do not contain anything therein prohibited. Punishment under the aforesaid sections would prevent any person from continuing any business which was judged by the court after trial to be within the inhibition of the aforesaid statutes.

I wish to further urge that the statutes in question are unconstitutional and void, for the reason that they give the postmaster general, upon evidence satisfactory to him without providing any hearing by or on behalf of the party charged with the violation of said statutes, the right to deprive the citizen of his property and property rights without due process of law, and in this regard I wish to draw the court's attention to the manner in which the department acted in this particular case as well as in the case of the issuing of the fraud order of October 22, 1902, against the mail of the League of Educators, which order was introduced into evidence by counsel for appellee. (Rec., p. 140.)

Before the last mentioned order was issued Mr. Davis, president of the board of managers, attended before the Department at Washington, and there met a Mr. Haze Morgan, the employee of the department, who had made the report upon which the postmaster general had acted in that case, which report Mr. Morgan allowed Mr. Davis to read. After Mr. Davis had read this report submitted by Mr. Morgan to the department, he testified on the trial in this case that he said, "Morgan," and I looked him square in the eye: *"You know that report is false from beginning to end."* Mr. Morgan replied in these words, *"I always show up the blackest side."* (Rec, p. 118.)

Although Mr. Morgan took the witness stand after Mr. Davis had testified, he did not contradict this testimony of Mr. Davis or attempt to do so, so that the department in this instance had acted upon evidence which, while satisfactory to the postmaster general, was false by the admission of the employee of the department, who made the investigation and obtained the evidence upon which the postmaster general had acted.

This record also shows in the case at bar, before the issuing of the fraud order complained of, the postmaster general had acted before he had received the co-operator's agreement, a copy of which is set forth in the bill. Counsel for appellee attempted to show on the trial that the appellee had transmitted to the office of the assistant attorney general of the post-office department a copy of the agreement issued by appellant, and to that end introduced into evidence a letter written by the appellee to the Honorable James N. Tyner, assistant attorney general for the post-office department, which letter was dated at Chicago, on the 10th day of November, 1902, and is stamped as having been received at the post-office department November 12, 1902. (Rec., p. 96.)

It will be observed that the fraud order in question in this case was issued at Washington on November 10, 1902, and was received by the postmaster, the appellee, at Chicago, on November 13, 1902, so that the fraud order in question was issued two days before the appellee's letter, enclosing the co-operator's agreement, had reached the office of the assistant attorney general of the post-office department.

While, as was said by this court in the case of the *American School of Magnetic Healing* v. *McAnnulty, supra:*

> "That the complainants had a hearing before the postmaster general, and that his decision was made after such hearing, cannot affect the case. The allegation in the bill as to the nature of the claim of complainants and upon what it is founded, is admitted by the demurrer, and we therefore have undisputed and admitted facts to show on what basis treatment by complainant rests and what is the nature and character of their business. From

these admitted facts it is obvious that complainant in conducting their business, so far as this record shows, do not violate the laws of Congress. The statutes do not as a matter of law cover the facts herein."

Yet I deem it advisable to draw this court's attention to the arbitrary power placed in the hands of an executive officer of the government by congress, which is and which can be used by the postmaster general and his subordinate in the post-office department to the injury and detriment and to the practical ruination of any citizen's business, whom the said officials may, in their arbitrary discretion, see fit to destroy.

I make the further point that the aforesaid statutes and proceedings authorized thereunder are void and unconstitutional for the reason that they are unreasonable and incapable of enforcement even if constitutional, for the reason that no means is provided by which the post-office department can determine fraudulent from honest mail, and if constitutional in part it can only be enforced by tying up the honest mail in order to reach and be effective upon fraudulent or dishonest mail, and for that reason must be held void.

I do not think this proposition can be successfully controverted. Looking at these statutes it will be seen that the effect of them is to allow the postmaster general or his assistants, whenever they may desire to do so, to condemn mail of all character and to order all mail matter addressed to the citizen about to be deprived of the post-office establishment, to be returned or sent to the Dead Letter Office.

Upon the face of the statutes this situation is absurd, because they provide that nothing contained in them shall authorize the postmaster to open any letter ad-

dressed to said citizen. Now, how is it possible, under such sweeping provisions as these, to do justice to anybody? While the statutes appear to authorize the postmaster general to stop all fraudulent matter and order it returned branded fraudulent, yet the statute upon its face clearly shows that he could have no way of knowing, because it recognizes the fact that he must not open the mails, and therefore they made a sweeping provision which will allow the postmaster general on any evidence, whether true or false, and which he might desire to act upon, to make any order which would in effect and must necessarily, in effect, tie up all the mail of the party. As the postmaster general has no means whatever of knowing whether the mail that he interdicts is or is not fraudulent, and he is not afforded by the statutes any means of inquiry, and the statute recognizes that he cannot open the mail, and as it does not afford any remedy or means for doing it, I contend that the statute must be held void.

It is a well settled proposition of law that where a statute is unconstitutional in part, in order that it may be upheld as to the parts that are constitutional, that which is unconstitutional must be capable of intelligent separation and enforcement, so that it may be operated by itself.

Baldwin v. *Franks*, 120 U. S., 678.

Suth. Stat. Constr., Sections 170-171-173.

U. S. v. *K. & H. Bridge Co.*, 45 Fed., page 184.

I make the further point that section 4 of the act above cited, approved March 2, 1895, which reads as follows: Sec. 4. "That the powers conferred on the postmaster general by the statutes of 1890, Chap. 908, Sec. 2, are hereby extended and made applicable to all letters or other matter sent by mail," is also in violation of the 4th and 5th amendments and of section 8 of article 1 of the U. S. Constitution.

It will be seen that under the provisions of this section the postmaster general has been given authority, upon evidence satisfactory to himself, to stop any person's letter or mail regardless of its character. The section does not even require that the mail should be fraudulent or that any scheme or fraudulent purpose shall be resorted to in order to authorize the postmaster general to stop it. It simply says that the same *power* that he has to stop any mail relating to any scheme or fraudulent purpose, he shall have under this section to stop all *mail of any character.*

It surely will not be contended by counsel for appellee that this provision should be constitutional, for the reason that this section does not say nor confine the postmaster to stopping letters or mail that contain improper matter, but simply authorizes him to exercise the *same power* towards honest mail that he is authorized to exercise by Sections 3929 and 4041 as to *improper mail.* This cannot be sustained under any circumstances, even if this court should hold that Sections 3929 and 4041 were constitutional, so far as giving the postmaster general the right to interfere with and stop *improper mail.* It could not be said that congress has the right to delegate to him the right to stop mail whenever he wants to; that is conceded to be perfectly innocent. This sec-

tion does not even imply that the letters or other matter sent by mail is to be fraudulent before it can be stopped, but it in effect says that as to honest letters the postmaster general shall have the *same power* as he has under the other section to stop *dishonest matter*. This is the only effect and reading to be given to the section.

We respectfully urge that there is no theory or hypothesis upon which this statute can be held not to violate the constitutional provisions heretofore mentioned and the authorities heretofore cited and we again refer to these citations as applicable under this proposition.

The statutes in question are not levelled against anything but registered letters, post-office money orders and ordinary mail matter which when deposited in the post-office could not in any manner injure or effect the mail matter of other citizens.

These statutes are against persons who have and are using the mails. The mails must have been used before the statutes can in any way become operative and the question to be decided in each case specified in the statutes is absolutely a legal and a judicial one, and not such a question as any employee could decide in the case of explosives or other dangerous articles which might destroy other mail matter and concerning which the Congress has said *shall not be received into the mails.*

It is true in regard to lotteries and fraudulent enterprises that the power must be lodged somewhere to prevent the mails being used for their purposes, but it should be lodged in a judicial tribunal. If these statutes are constitutional congress could as consistently and as lawfully give the postmaster general the right to punish by fine or imprisonment any person whom he should adjudge to be guilty of a violation of these statutes.

We therefore respectfully submit that the court should adjudge and declare these statutes unconstitutional and void.

II.

I make the further point that appellant was not, at the time of the issuing of the fraud order in question, engaged "in conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises." This fact was found by the court below in favor of appellant, and no exception was taken thereto by appellee; therefore the postmaster general in issuing the fraud order acted outside of his authority under these statutes.

The order issued by the postmaster general against the appellant's mail was issued because Mr. Christiancy as acting assistant attorney general for the post-office department had concluded that said appellant had violated the fraud part of said statutes, and not because it had violated the lottery provisions.

These statutes provide for two separate and distinct charges, viz.: 1, Conducting a lottery; 2, obtaining money by fraud. A lottery may be operated purely and simply as a lottery, and as a lottery may be fairly and honestly conducted, but it would not impinge on the fraud provision. Again, a person may be guilty of obtaining money through the mails by means of false and fraudulent pretenses or promises and not have any element of lottery in his manner or mode of doing business.

While appellant has been adjudged by the post-office department of being guilty of obtaining money through

the mails by fraud, yet the master after a full hearing decided that the post-office department was wrong and that appellant is not guilty as charged against it, which finding was confirmed by the court below.

Paragraph nine of the master's finding is as follows:

> "The master is of the opinion, from the evidence, that the public clearing house, through its officers, Davis and Baxman, and its predecessor, the board of managers, consisting of the same persons, have dealt fairly and honestly in respect to the collection and distribution of the funds collected by them, and further that they have not been guilty of making false or fraudulent misrepresentations in order to induce persons to become members of the league, but that full opportunity has been given for all persons to become fully conversant with the details and workings of the league's system."

As to the plan or scheme itself, in the master's opinion it may be characterized as *malum prohibitum* rather than as *malum in se."*

The obtaining of money by fraud is *malum in se,* while the conducting of a lottery is only *malum prohibitum.* Lotteries were at one time authorized by congress, and were taxed for the purposes of revenue.

Stone v. *Mississippi,* 101 U. S., 818.

U. S. v. *Olney,* 1 Abb. (U. S.), 278 Fed. cases, No. 15918.

Again, the master says in his report, which was confirmed by the court:

> "It is strongly argued on the part of the complainant that the scheme is innocuous and not fraudulent and not a plan to secure money by means of false or fraudulent representations, and it is pointed out and strongly emphasized that the literature of the league does not promise any definite amount or ratio of profit to its members; *but while this may operate to remove one ground of objec-*

> *tion,* it merely emphasizes the lottery feature of the plan."

Showing conclusively that the master was of opinion and found from the evidence that whatever else may be said about the appellant's business it was not guilty of obtaining money by means of false or fraudulent pretenses or promises.

And the court in a short oral statement at the close of the arguments on the exceptions to the master's report before him, stated in substance that the appellant, by its officers, was not guilty of fraud or of making false pretenses, which clearly shows that both the master and the court were of the opinion that appellant was not guilty as charged in the fraud order issued by the postmaster general at the instance of G. A. F. Christiancy, acting assistant attorney general for the post-office department.

I therefore respectfully submit that the appellant is entitled to an injunction as prayed for in the bill of complaint, for the reasons set forth by the Supreme Court in the McAnnulty case, where the court says:

> "The result is that the postmaster general has ordered the retention of letters directed to complainants in a case not authorized by those statutes. To authorize the interference of the postmaster general the facts stated must in some aspect be sufficient to permit him under the statutes to make the order."

Again the court says:

> "Other instances might be adduced to illustrate the proposition that these statutes were not intended to cover any case of what the postmaster general might think to be false opinions, *but only cases of actual fraud in fact,* in regard to which opinion formed no basis."

Ever since the beginning of time every new movement, idea, theory or matter of science has been vigorously attacked by those who do not stop to investigate before they give their opinion that the subject-matter is not feasible and cannot be accomplished. When the telegraph and cables were invented men supposed to be wise in this world's wisdom rose up in the height of their oratory and denounced the inventor in no uncertain terms.

When an eminent mathematician and philosopher endeavored as far as possible to solve the problem of the finance of life insurance he was accused of endeavoring to put upon the public a lottery and a game of chance and to carry on a scheme which was alike immoral and illegal; but life insurance, both old line and fraternal are not only thoroughly recognized now as feasible, but have the protection of the law and the courts.

It is recognized by statisticians, actuaries and authorities in that behalf that not more than 20 per cent. of our population belong to the insurable class and of that 20 per cent. perhaps not more than one-half are able or disposed to take out insurance policies; yet to-day we find a very large number of old line and mutual life insurance companies advertise the great increase in their business of the preceding year for the sole purpose of getting more business and showing to the public their financial responsibility. Fraternal life insurance associations point with pride to the increased number of members obtained by them during the preceding year.

If we examine into the theory of life insurance we find that all life insurance absolutely depends upon getting new business. Every policy issued by a life insurance company at once becomes a liability or is supposed to

become a liability, but as a matter of fact a very large percentage of the policies issued lapse before the insured dies and thereby do not become a claim upon the company.

The source of revenue of a life insurance company are first receipts from premiums; second, profits resulting from what are called lapses. Insurance premiums paid into the company are apportioned by the company into three classes: First, to pay expenses; second, to provide for a mortality fund, and, third, the reserve fund. The expense fund varies from 25 to 35 per cent.; the mortality fund about 30 per cent. and the balance goes into a reserve fund to be invested by the insurance company for the purpose of paying the amount of the policy should the insured live the allotted number of years as fixed by the mortality tables.

The only source from which life insurance companies can look to pay for their death losses is the premiums arising from new business or the increase in membership and the profits from lapses. The amount paid into the reserve fund by the holder of the policy which has by the death of the insured become a claim on the company; while it is popularly supposed that a life insurance company can draw on its reserve fund to pay a death claim, such is not the case; take for example a person taking out a policy of insurance for $5,000 at the age of 35; his premium would be about $144 per annum, which he pays when he takes out the policy, and suppose that he dies during the first year the policy is in force, his estate has a claim on the company for $5,000; he has only paid $144—the reserve fund has probably received 40 per cent., or $57 from him; the difference, $4,943, will have to be paid by the company out of premiums received on new business and lapses. The company cannot touch the

reserve fund to pay this claim except to the extent which the insured has paid into that fund.

That the foregoing is true is shown by the following statements of actuaries:

> "The reserve can be used for no purpose whatever while the original policy is in force except for accumulation." (Mervin Tabor, actuary.)
>
> "No part of the reserve can be used to pay a death claim on any policy, save the one to which it belongs, any more than a bank of deposit can use the funds of one depositor to make good its losses to any other." (E. D. Williams, consulting actuary.)
>
> "The fact is, the reserve is simply and purely a bank deposit, belonging for life or death to the depositor, and having no more real connection with the insurance risk than a corresponding deposit in a bank across the street would have." (Emory McClintock, F. I. A., actuary, Mutual Life, N. Y.)
>
> "THE SAFETY of an insurance office consists in the number of lives it has assured, and the greater the number of transactions it has, the safer it is." (Late Morris A. Black, F. I. A., and actuary.)

In fraternal life insurance the association agrees to pay to the beneficiary of the deceased member a sum certain upon his death for the payment of a small assessment to be made by him from month to month. When a member dies his policy becomes a claim upon the association and is liquidated by an assessment upon all his brother members so that the only source of revenue which a fraternal insurance association has for the payment of its death losses is the monthly dues or assessments of the members.

When the system of insurance was first commenced the wiseacres at once set up the cry that it could not be done and yet insurance is now carried on all over the world on a larger scale than was ever contemplated even by the most sanguine insurance man at the time of the commencement of the system of life insurance.

The same was said in regard to fraternal life insurance and so it has been with every new theory or idea.

For some reason best known to themselves it got into the mind of some of the employees of the post-office department at Washington that the plan and system of co-operation as applied by the league of equity, clearing through the public clearing house and its predecessors, could not be accomplished (or finance out), although the system of co-operation then in force, and which had a membership of about 10,000, had been in operation for a period of over four years and had been successful in every detail and had demonstrated to the satisfaction of its membership that it was on a sound financial basis and was more capable of financing out than either the old line life insurance companies or the fraternal insurance companies (see Record, bottom 57), or any similar organization for the reason that in order to be successful, both old line and fraternal insurance companies or associations must continue to get new members or new business at a sufficient rate to meet their liabilities and to pay their death losses. As an illustration: supposing an increase of 8 for 1 in five years is necessary in order to meet their liabilities and pay their death losses; if for any reason they do not maintain this ratio of increase, they cannot meet their liabilities; whereas in the League of Equity it is immaterial what the increase is for the reason that its plan and system of operation is automatic and will adjust itself to any increase, as will be seen by the causation and realization table set forth in the co-operator's agreement. (Rec., p. 96.)

The principal difference in co-operation (because they are all co-operative) between the insurance companies and associations and the League of Equity is they agree to pay a specific sum upon the happening of the death

of the insured, providing he continues to pay his premiums, whereas in the League of Equity all of the members promise each other that they will contribute their monthly payment of $1 and will realize the amount which will be ascertained by the growth of the organization during their period of co-operation. The league has for its assets the promise of all of its members that they will pay to the realizing members their $1 per month during the period of five years.

While I have shown that only about 10 per cent. of the population are insured, and the insurance companies prosper and continue to grow (Rec., 154-155), yet the League of Equity has for its field to draw from for increase of its membership the entire population as neither climate, health, age, occupation or other disabilities looked into by the insurance companies stand as a bar to any individual man, woman or child from becoming a member of the league and reaping its benefits. It also has the advantage that the member does not have to die in order to reap its benefits but receives the benefit of his work and service and assistance which is given to his fellow-man during this life.

The various kinds and forms of life insurance policies now issued by the various insurance companies throughout the United States and Canada are today as different as daylight is from darkness comparing them with the policies issued fifty years ago, but the same underlying principle of life insurance is the same today as it was when the first policy was written. So it is with every idea; it grows and as it grows, while the principle itself does not change, the details of the plan are changed from time to time. So it has been with the co-operative plan of the League of Equity (Rec., 69); the same under-

lying principle was in force in the league's plan at the time of the issuing of the fraud order as it was when the organization first started, but the plan, with the consent of the members, was in detail changed for the betterment of the members from time to time, until the members of the League of Equity were carrying on their system of co-operation as was set forth in the bill of complaint and the co-operator's agreement.

I wish to impress upon the court that during the entire period of four years from the inception of the principle of co-operation as advocated by the appellant and the members of the League of Equity, there never has been any complaint of fraud, misrepresentations or breach of trust by any of its officers, and that in no place in the record is it shown that any complaint of any kind was ever made against the appellant or any of its predecessors to the post-office department; but it is in the record by the only witness put on the stand by the appellee, an employee of the department who seemingly had charge of and was instrumental in the issuing of the fraud order complained of, that he was not acquainted with any of the members of the league. (Rec., 143.)

Not only there was no complaint made by any of the members of the league that the appellant, its officers, agents or its predecessors had practiced any deceit, fraud or misrepresentations upon them, but they were all willing and anxious and desirous that their letters, which contained remittances, should be delivered promptly by the appellee, as the postmaster of Chicago, to the appellant.

I further wish to impress upon the court that the members of the League of Equity and its predecessors were not illiterate and ignorant members of the community, but were men and women in all walks of life, including

professors in educational institutions, insurance men, doctors, lawyers, merchants, manufacturers, etc. (Rec., 126.)

Not only did the master and the court find that appellant, through its officers and agents were not guilty of obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, but the record fully justifies the findings of the master and the court. In the testimony of Mr. Davis it was shown that a uniform letter was sent out in answer to all inquiries made relative to the business of the League of Educators and also to the League of Equity and the public clearing house, a copy of which letter was introduced in the evidence and is as follows:

"September 24, 1901.

Mr. John Smith, Chicago, Ill.

DEAR SIR: Your inquiry is at hand and you will find literature herewith which if carefully read will give you a good understanding of the value of purely mutual co-operation, or what people can accomplish by co-operating with one another in a purely mutual way.

":Your application and support are not desired until you thoroughly understand the plan, so if there is anything not clear to you, will be pleased to have you call for interview, or will answer any questions by mail.

"Fraternally yours,

"_____."

(Rec., 120-121.)

Also the following extract from the Vigilant, introduced in evidence by the defendant: "No member is ever allowed to join with his eyes closed; every detail of the league's plan and its actual working is an open book to all." (Rec., 153.)

Again in Exhibit N attached to the defendant's an-

swer and admitted in evidence, which is a uniform agreement with all the general managers in their specific territory:

> "Eighth. The said J. N. McCormick agrees to faithfully and honestly represent the said league in said territory and to properly and correctly present the league's plan of co-operation and not to make any misrepresentations of the said league or its work under any circumstances." (Rec., 99.)

The same thought and idea of correctly, honestly, fairly and impartially presenting the league's plan and system of co-operation to all persons making inquiry or to prospective members is contained throughout all of the literature ever issued by the appellant or any of its predecessors. The appellant, by its officers and agents have always been very careful and particular not to make any misrepresentations of any kind whatsoever. They absolutely refused the support of any person who did not thoroughly understand the league and its plan. With this testimony, evidence and literature before the master and the court, notwithstanding the strenuous efforts made on behalf of the defendant by Mr. Haze Morgan, an employee in the post-office department at Washington, a star witness for the appellee on the hearing, and who had claimed to have made an examination into the league's plan, and, under oath, claimed that appellant, its officers and agents and predecessors have been guilty of fraud, misrepresentations, the master and the court found that appellant had not been guilty of obtaining money through the mails by means of false or fraudulent pretenses, representations or promises of any kind. So strong was the testimony, the evidence and the printed literature introduced in evidence upon this point that counsel for the defendant did

not think it wise to take an objection or exception to the master's and the court's findings.

The master having found in his report from the evidence that the appellant by its officers and agents, Davis and Baxman and its predecessor, the board of managers, consisting of the same persons were not guilty of obtaining money through the mails by means of false and fraudulent representations or promises, and no objections to his said findings have been taken by the appellee, his said findings are conclusive of this question and absolutely dispose of the charge made against the appellant under this provision of the statutes in question, and the fraud order issued against it on this ground was therefore improperly and unlawfully issued and the injunction prayed for should therefore be granted in any event.

We now come to the other provision in the statute, viz.: the lottery phase of the statute.

III.

I make the point that even if these statutes are constitutional, yet the appellant corporation, from the facts as proven at the trial, and found by the court, is not, as a matter of law, engaged "in conducting any lottery, gift enterprise or scheme for the distribution of money, or of any real or personal property by lot, chance or drawing of any kind" within the meaning of said statutes, and the postmaster general having assumed and exercised jurisdiction in a case not covered by said statutes, and having acted outside of the scope of the said statutes, the injunction prayed for should have been granted in any event.

The statute is as above quoted.

It will be observed by the court that the statutes herein

above set forth provide for two separate and distinct offenses and gives the postmaster general authority, upon evidence satisfactory to him, to prohibit postmasters throughout the United States from delivering to citizens mail addressed to them, for either one of two reasons or both. The first part of the statute is levelled against persons, concerns or corporations engaged in "conducting any lottery, gift enterprise or scheme for the distribution of money, etc., by *lot, chance or drawing of any kind.*" The second provision of the statute is levelled against persons, concerns or corporations engaged in "conducting any scheme or device for obtaining money or property *through the mails by means of false or fraudulent pretenses, representations or promises.*"

There are also two forms of orders issued by the postmaster general to postmasters under the provisions of the aforesaid statutes; one is known as the lottery order, wherein the postmaster general recites: "It having been made to appear to the postmaster general, upon evidence satisfactory to him that ———— at ———— is engaged in conducting a scheme or device for the distribution of ———— by lot, chance or drawing through the mails, in violation of the act of Congress, etc."

The order complained of in the case at bar was not issued because the postmaster general found that the appellant was engaged in a lottery scheme, but because he found that the appellant was engaged in obtaining money through the mails by means of false and fraudulent pretenses, representations, promises, etc. In fact, Mr. Christiancy, who was at that time acting assistant attorney general for the post-office department, and the law officer of the government who passed upon appellant's plan, and the only one who did pass upon it, as the

postmaster general left the matter entirely to him had said in discussing the matter with Mr. Davis, that there was not any element of lottery or chance in the plan and system of co-operation. This fact was alleged in the bill of complaint (Rec., 12), and was denied in the answer, and an issue was made on it and on the trial the appellant offered to prove the said allegation of said bill; this testimony was objected to by counsel for appellee, and the master ruled it out (Rec., 127), to which ruling objections were filed and exceptions taken before the court so that it is clear both from the wording of the order complained of and the evidence offered to show that the officials at Washington in the post-office department, did not hold or intend to hold in their arbitrary discretion that the plan or system of the league came within the lottery prohibition of the statute for they were satisfied that there was not any element of lottery in the league's plan.

It is alleged and claimed by appellant in its bill of complaint that it is not engaged in either of the acts forbidden by the said statutes, but that its business is legitimate, and therefore it is entitled to the uninterrupted use of the United States mail.

The appellant, the public clearing house, besides the other business authorized by its charter, acts as agent and clearing house for the members of a purely mutual voluntary society, known as the League of Equity. It makes no promises to co-operators in this society, other than to act as agent and clearing house for them, and the master has found that it "has dealt fairly and honestly in this respect."

Paragraph nine of his report.

The master set forth in his report a fairly accurate de-

scription of the League of Equity's plan or system of purely mutual co-operation. It is as follows:

> 6. "The plan or scheme of the League of Equity as set forth in the co-operator's agreement and in other literature issued by said complainant may be briefly stated as follows: Each person who becomes a member or co-operator pays three dollars as enrollment fee and agrees to pay the sum of one dollar per month for sixty months, or five years, and also agrees to 'co-operate' by inducing other persons to become members or co-operators. The agreement states that in consideration of said enrollment fee 'and the faithful compliance with the terms of this agreement hereinafter contained, the above named person shall receive his pro-rata share of the total amount realized (less ten per cent.) when entitled to a realization, as hereinafter provided, said realization to be in accordance with the following ordinary causation and realization table.' Then follows a table showing that if the league grows at the rate of fifteen to one the total realization of the member at the end of five years will be at the same rate of increase, that is, he will receive nine hundred dollars for his sixty dollars paid in; if the growth is at the rate of ten to one he will receive six hundred dollars at the end of five years, and so forth and so on, down to a growth of only one to one, in which case he will receive only his money back, less the ten per cent., which is in each case deducted as the compensation of the complainant for its services and existence as fiscal agent, and less also the three dollars enrollment fee. Aside from this ten per cent., and the three dollars enrollment fee, the plan does not contemplate that complainant shall retain any of the money paid in by co-operators, or that any reserve fund shall be accumulated or invested, but that the money paid in each month shall be as regularly paid out each month (less ten per cent.), to the so-called realizing co-operators, *i. e.*, those whose five year period has expired and who have continued to make the requisite monthly payments during said five years.

There is an additional provision that each co-operator who shall have secured three new members in any one year may realize or receive at the end of each year one-fifth of the amount which he would be entitled to receive at the end of five years, assuming that the growth for the five years continued at the same rate; but the plan contemplates that in the end the member who secures new members and the one who does not shall receive the same amount.

7. All members who join the League of Equity during the same month constitute a class by themselves and are entitled to realize in all respects precisely the same amount and at the same time, excepting the member who obtains new co-operators may receive his realization in yearly installments, instead of in one lump at the end of the five year period.

The only source of income to the league and the only funds to which its members can look for payment of the promised amount or any amount whatever, is the fund created each month by the payment of monthly dues, and the realization of any amount whatever by new members is conditioned absolutely upon the constant acquisition of other new members, and the new payments to be made by such new members. *And what amount the members or co-operators will realize, as is stated by the league literature, depends entirely upon the ratio of growth of the league.* No reserve fund is accumulated and no investments whatever are made of any portion of the money paid in by members."

From this statement of the plan or system the master concludes that the appellant in acting as agent and clearing house for the co-operators of this society is guilty of engaging in a lottery, &c, described in the statute.

The court will observe from reading the statute that congress has coupled the words lottery, gift enterprise and chance, lot and drawing of any kind, together, so

that they are all synonomous one with the other, and all are used as having one general meaning, viz.: Lottery as that word is usually understood. The master in coming to his conclusion that the plan and system of the League of Equity is within the inhibition of the statutes above quoted uses the words that the plan is "in effect a lottery" and "that the scheme is as utterly a gambling one, as utterly dependent upon chance, as the question whether the roulette ball will fall on the 'red' or 'black' or on any specific number, and thus pay the gambler little or much or nothing according to his luck," showing that the master has characterized the plan, which is as he has set it out as above, is nothing more nor less than a lottery.

The question then is: What is a lottery? This has been defined by the standard dictionaries as

> "A scheme for the distribution of prizes by chance, or the distribution itself." Webster's Encyclopedic Dict.
>
> "A lottery has been defined as a scheme for the distribution of prizes by lot or chance."

Bouvier's Law Dict.:

> "A lottery *depends absolutely upon chance.* A lottery is a scheme by which a result is reached by some action or means taken and in which *man's choice or will* has no part, nor can human reason, foresight, sagacity or design enable him to know or determine such result until the same has been accomplished."
>
> *People* v. *Elliott,* 74 Mich., 264-16 Am. St. Rep., 640.

> "A lottery is a sort of gaming contract by which for a valuable consideration one may by favor of the lot obtain a prize of a valuable, superior to the amount of value of that which he risks.
>
> Ex. P. Kameta, 36 Oregon, 257.

"Where a pecuniary consideration is paid and it is determined by lot or chance, according to some scheme held out to the public, what the party who pays the money is to have for it or whether he is to have anything, it is a lottery."

Chief Justice Perley, in case of *State* v. *Clark*, 23 N. H., 335-66, Am. Dec., 763. This definition is quoted with approval by U. S. Circuit Court of Appeals for 7th Circuit in *McDonald* v. *U. S.*, 63 Fed. Rep., 426, affirming 59 Fed. Rep., 565.

See also,

Lynch v. *Rosenthal*, 144 Ind., 90.
Horner v. *U. S.*, 147 U. S., 458.
U. S. v. *Wallis*, 58 Fed. Rep., 942.

"A lottery is a gambling contract in which one or more parties on the one side risk a small sum for the chance of obtaining a greater, *the winner or winners to be determined by lot.*"

Am. & Eng. Enc. of Law, Vol. 14, p. 600, 2nd Ed.

What is lottery? The answer to this question must be found in the meaning of the word as established by usage and authority. I assume that the argument of appellee will be that the legal and popular meaning of the term coincides, and that it is used in the statute according to its ordinary and general acceptation. Indeed I am not aware that the word has any technical or peculiar significance. The word "Lottery" is defined and used as follows by lexicographers and writers:

"A distribution of prizes and blanks by chance; a game of hazard in which small sums are ventured for the chance of obtaining a larger value either in money or articles." Worcest. Dict.

"A disposition of prizes by lot or chance." Webster Dict.

"A scheme for the distribution of prizes by lot or chance." Bouvier Dict.

"A kind of game of hazard, wherein several lots of merchandise are deposited in prizes for the benefit of the fortunate." Rees' Encyclopedia.

"A sort of gaming contract by which for a valuable consideration one may by the favor of the lot obtain a prize of a valuable superior to the amount or value of that which he risks." Am. Cyclopedia.

"That the chance of gain is naturally over-valued we may learn from the universal success of lotteries."

Smith, Wealth Nat. Bk., 1 C., 10.

All these authorities agree that where there is a distribution of prizes, something valuable, by lot or chance that this constitutes a lottery. But the definitions from Worcester and the American Cyclopaedia are the most complete. From each of these it expressly appears that a valuable consideration must be given for a chance to draw a prize.

U. S. v. *Olney,* 1 Abb. (U. S.), 278 Fed. Cases, No. 15918.

Sec. 180, of Criminal Code of Illinois, Hurd's, Stat. of 1899, make it a criminal offense to engage in a lottery in this state, and the legislature has given the word a very broad and general meaning. The Supreme Court of this State in construing that statute says:

"Under the statute of this state a lottery scheme to come within its prohibition must contemplate the distribution of prizes by chance and there must be a chance to gain or lose something by the drawing."

Dunn v. *People,* 40 Ills., 465.

Thomas v. *People,* 59 Ills., 160.

Elder v. *Chapman,* 176 Ills., 142, at p. 150.

"Every lottery has the characteristics of a wager or bet although every wager is not a lottery."

Wilkinson v. *Gill,* 74 N. Y., 67-30, Am. Rep., 264.

What is chance? It is defined by lexicographers as:

"To happen, to fall out, to come or arrive without design or expectation."

"An event that happens, falls out, or takes place without being contrived, intended, expected or foreseen, the effect of an unknown cause, or the unusual or unexpected effect of a known cause, accident, casualty, fortuitous event, as time or chance happen to all."

Webster's Encyclopedic Dictionary.

It will be seen from above definitions, decisions of courts and judicial interpretations of the words lottery and chance that every lottery must have an element which is an essential part of the scheme or plan which is determined by something over which man has no control and over which *his "will"* plays no part. The plan of the League of Equity as described by the master shows that there is not a single element of lottery or chance in it when tested by any of the above definitions or quotations or decisions.

Judge Grosscup had this question of lottery before him in the case of *U. S.* v. *MacDonald,* 59 Fed. Rep., 563; in that case the court said:

"What is lottery? The best definition I can find for it is this: Where a pecuniary consideration is paid and it is determined by chance or lot, according to a scheme held out to the public, whether he, who pays the money is to have anything for it, and if so, how much? That is a lottery. You will see therefore that the elements of this definition are two: First, that the party who pays the pecuniary

consideration must have a return—a prize; second, that return or prize is determined by lot or chance."

MacDonald v. *U. S.*, 59 Fed., 563.

Again the court in the same case said:

"Take for instance life insurance companies—those that proceed either on the stock plan or on the assessment plan; they require of the member that he pay a certain amount of money; that is the pecuniary consideration. That money is invested or supposed to be invested in securities and when the member dies a certain amount, stipulated in the policy, is paid to his heirs or the beneficiary named in the policy. That is the return. The man may have been insured but a month and have paid in but a few dollars, and have received back $5,000 or $10,000. In such instances as that a much larger sum has been returned than the consideration, but the fact that there was such a return does not make it an unlawful enterprise. Why? Because the prize is not determinable upon lot or hcance. It is dependent upon the life of a man, and the life of a man is determined by the laws of nature and not by the chances of lot."

And right here I desire to call the attention of this Honorable Court to the fact that the five year period of co-operation in the plan of the League of Equity is more certain than the life of man, because the length of man's life is indefinite, whereas the period of five years in the league's plan is definite.

"A man who makes an investment in real estate may put in a few thousand dollars and take out a million. What he puts in is the consideration; what he takes out is the prize. It may be a hundred fold larger than what he puts in, but on what is it dependent? Upon the growth of public sentiment respecting the value of property in that particular locality; upon the law of growth, which is itself a natural one—an industrial law."

The master in his report states that the only difference between this and an

> "ordinary lottery is that in the ordinary lottery the amount of the prizes is fixed in advance and the prize drawers are determined by lot, whereas in this plan the prize drawers are determined in advance and the *amount of the prizes are settled by lot or chance.*"

In other words, the master finds that everything in the league's plan is certain, specific and determined with the exception of the amount which the realizing co-operator is to receive, and as above quoted, he says, "that is determined by 'lot or chance;'" and right here is where the master has fallen into error. He states in describing the league's plan:

> "It invites people to join the said league, and holds out inducements in the shape of a large return for *small amounts of money and for services to be rendered* by members or co-operators in inducing others to become members or co-operators."

Paragraph 5 of master's report.

That is to say, the difference between what a co-operator realizes and that which he contributes is absolutely determined by the amount of service or work he and his fellow co-operators or co-partners have performed, or as stated by the league literature, *depends entirely* upon the *ratio of growth* of the league, and in the words of Judge Grosscup it is a "natural and industrial law."

Surely then it does not depend upon lot or chance in the sense of the lottery acts. The amounts which the co-operator realizes depends entirely upon growth and by his agreement with the rest of the co-operators he agrees to help produce that growth; he has it absolutely within his power and all of the co-operators have it within their power to make their own agreements good and

valuable. It depends on *their own choice,* on *their own will.* If they do not work and render service then there is no growth produced and there is no gain, neither is there any loss, and therefor there is not a single element or vestige of lottery or gambling in the league's plan.

The master argues that it is impossible for the co-operator to know how many he will himself secure. It is *a fortiori* impossible for him to know how many any or all of his fellows will secure and therefore it is uncertain what amount he will realize and that being uncertain and indefinite, therefor the plan is a lottery and the scheme is as much a gambling one as the game of *roulette.*

I wonder if the learned master can foretell how much his earnings will be during this year, or can he forecast it. He can approximate it from the experience of the past. It absolutely depends upon the amount and kind of litigation which may come before him. Over this he has absolutely no control, for it depends upon the litigants and the court whether cases will be referred to him or not, and this is not within his power, so that the amount of his revenue is uncertain, indefinite and dependent entirely upon others (so far as his revenue as master is concerned), and yet it could hardly be said that therefore he is engaged in conducting a lottery.

Take the case of the investment in real estate referred to by Judge Grosscup. There a man may invest in real estate he has never seen, and he may not have done anything towards building up a town or city on or near it, and yet by something over which he has no control, in no manner contributed or assisted by his work or service, nor could he with any degree of certainty foretell or forecast what the increase in value would be, yet by

a growth produced by others he is able to realize many times his investment.

In the league, however, the realization depends upon growth and the growth depends upon the exertions of the co-operators, upon their *willingness* to render service, so that it depends upon themselves absolutely and they have it in their own power and control.

There is no business in this world but what depends more or less upon growth for its success and no man can forecast to a certainty what his profits will be for any given period of months or years. If the league's plan is a lottery then every other business which depends upon the law of growth is a lottery. The law of growth is a natural law. The master says that the league offers a prize and therefore its plan is a lottery. Judge GROSSCUP in the McDonald case, *supra,* says:

> "Now every enterprise in which we engage has a return or prize or is supposed to have. That is the incentive which makes man industrious. Whether that return or prize be determined by mere lot or chance makes it either a legitimate enterprise or a lottery and therefore an unlawful enterprise,"

So that the important question in each case is "Is the essential element in the plan and system determined by lot or chance?" If it is not, so determined then the enterprise is not a lottery and therefore it is not unlawful. The system of purely mutual co-operation as applied by the League of Equity is entirely lacking in this essential element. It is impossible to interpret any of the foregoing decisions so as to include this plan and system within the purview of any of said definitions of a lottery. The essential element to constitute it a lottery is entirely lacking in this proposition. The contingency upon which a co-operator realizes is the securing of one or more new

co-operators or the paying of his monthly share for five years. Neither one of these contingencies is chance for it is entirely within the control of the co-operator whether he procures new co-operators or pays his monthly share and keeps his agreement in force for the period of five years and thus make his agreement valuable.

If this enterprise is a lottery then so is every old line life insurance company engaged in a lottery. Let us suppose a person takes out an endowment policy in any old line life insurance company, for say ten years and lives that time, paying his annual premiums. Can the insurance company tell him at the time when he takes out his policy what amount he will receive for his policy on his investment at the end of the ten years? No. Why? Because it is impossible to tell what will be the profits in that time, or how many will take out insurance and how many will lapse, etc. If you could foretell these contingencies, then you could tell the amount the insured would receive on his endowment policy. So it is in the league. If you can foretell how many will join and be persistent for five years you can tell accurately what the co-operators' realization will be. But that is uncertain in the league the same as in every other human institution. The growth of the league depends upon the natural and unalterable law of increase. So it is with assessment fraternal insurance companies. The number of assessments to be levied in any one year depends upon two contingencies, viz.: The number of deaths and the increase in the membership. No one thinks of calling either old line life insurance companies or assessment insurance companies lotteries. The theories of our laws and constitution are that all citizens are equal before the law and that the law shall be applied equally to all. A law which condemns one man's business must condemn all

persons in a similar business and the law which upholds one citizen's business must uphold all other citizens similarly situated. The law and the courts uphold and declare legal both old line life and assessment insurance companies. The league's plan has no more element of lottery in it than have these companies. If they are lawful then so is the league.

A similar plan was before the court in the case of *Hoover* v. *McChesney, supra,* where the postmaster general issued a "Fraud Order" against the Southern Mutual Investment Company of Lexington, Kentucky, on the ground that it was engaged in the conduct of a lottery or similar enterprise; and the court granted an injunction against the postmaster and shortly after the order of the postmaster general was revoked and they are continuing to do business today. It is a bond investment company and one of its essential features is that the company will redeem one or more of the coupons attached to the bond after the payment of five monthly premiums out of a total of 72 or 6 years, and the redemption of these coupons as to time depends upon the number of bonds sold and premiums paid by new bondholders. Forty per cent. of the money of the new bondholders is used to redeem the bonds of those who have been bondholders for five months or longer, but whether a coupon is redeemed in the fifth, sixth or seventh or later month depends upon whether or not the coupon fund is sufficient to pay all coupons similarly situated. If it is not sufficient then the coupon holders must wait until such time as that fund is increased by new business and this depends upon the number of new bondholders contributing to the coupon fund. This company makes an absolute promise to pay on the forty-five coupons attached to each bond $1.50 for each dollar invested, plus

5 per cent. interest on the amount paid in on the redeemed coupon for the average time of the investment according to the table of values on the bond which varies each month according to the month in which the coupon happens to be redeemed. Here the time of redemption and hence the amount realized on a special coupon attached to a bond depends solely and entirely upon the number of new bondholders obtained by the company after any specified bond has been issued. This is the plan of that company which has been endorsed by the courts, the post-office department, and authorized to do business in all the States of the Union. No court or state official has ever declared the business of this company a lottery because the redemption of its coupons depend as to time and amount upon its own exertions in securing new bondholders and it must be borne in mind that the post-office department have not declared that the League of Equity and public clearing house are engaged in a lottery. The master has so found in this case and yet in the league's plan the amount which a co-operator will realize does not depend upon the complainant company or on any one else except the co-operators themselves. Then I ask when on this phase of the case it is entirely within the control of the co-operators themselves whether they will realize much or little, can it be said that the complainant company and the co-operators in the League of Equity who consist of the very best people in this country are engaged in the conduct of a lottery or similar enterprise.

Again in the Southern Mutual Investment Company the forty-five coupons attached to the bond may all be redeemed in fifty months or longer, according to the growth of the business, but the bond itself is to be redeemed at the end of seventy-four months; now the

amount which the bondholder will receive depends solely and entirely upon the advantageous investment by the company of 40 per cent. of the premiums paid by him during that time, plus the lapses of the unfortunate who have fallen by the wayside, excess interest, reserve or redeemed coupons, surrenders, fines and forfeitures. Can any human being foretell what these will amount to in seventy-four months? No; neither can any man or any business tell what the profits will be in a year, let alone six years, yet the courts, state authorities, officials and the public do not think and rightly so, that this company is engaged in a lottery, simply because one cannot tell what the value of the bond will be at its maturity, and this value in a great measure so far as profits are concerned depends principally upon lapses, fines and forfeitures, and so far as interest accretions are concerned it depends upon the skill and judgment of the officers of the company.

The league's plan and system is an equitable distribution among its members of their labor and contributions, and they do not depend on any concern or company, nor on the judgment and skill of anyone, but solely and absolutely upon themselves and each co-operator, and all of them have it within their power to make their agreements good and valuable, and the amount which they receive does not depend upon those who are unfortunate and lapse, or upon fines and forfeitures, but depends solely upon their own efforts and exertions.

The business of appellant and its predecessors has been carried on in the City of Chicago for upwards of four years and they each had in their plan the very same principle and manner of conducting their business as the appellant in regard to which point the master has found constitutes a lottery.

The State of Illinois has upon its statute books laws prohibiting lotteries and similar enterprises and its officers have had the plan of the appellant drawn to their attention and they have not charged it with committing a crime; on the contrary they recognize the business as one to be protected; and this very feature which the master says is a lottery was publicly proclaimed at all times and made a prominent part of their literature. The post-office department was during all those years furnished with copies of the literature as soon as it came from the press, in which this identical feature was given extraordinary prominence, and that department, biased as it is against the appellant, did not deem that there was any element of lottery in the league's plan. It remained for the master to find that because "The league does not promise any definite amount or ratio of profit to its members—it merely emphasizes the lottery feature of the plan." I respectfully submit that here the master has fallen into grave error.

From the decisions of the courts and the definitions of and concerning lotteries above quoted, these statutes cannot be distorted or enlarged in the manner in which the master has endeavored to interpret them. They cannot in any manner be so interpreted without doing violence to the ordinary and usual rules of interpretation.

The master evidently with the intention of supporting his finding that the appellant is engaged in a lottery has inserted in his report the statement "that there is also a certainty that there will be many blanks drawn." This statement by the master is absolutely contrary to the evidence and is not supported by one scintilla of evidence. On the contrary the evidence adduced and the exhibits offered and in evidence absolutely disproves this finding.

It was not even claimed by the appellee's star witness, Morgan, that there were any blanks to be drawn. Again the master's finding and statement of the plan of the league shows conclusively that there are no blanks to be drawn by any of the co-operators. In fact there is no such a thing as a *blank* in the plan. The master failed to point out where in the plan he found that *blanks* were to be drawn. And I challenge the counsel for the appellee to point out to the court if they can, anything in this record to support the said statement or finding of the master.

On the contrary, the master in his first report to the court on the motion for a preliminary injunction in describing the league and its plan used these words,

> "What amount they will realize, as the league literature states, depends upon the ratio of growth of the league; and this ratio of growth depends upon *the individual efforts of the members.*"

The above finding of the master in the first report is not changed or altered in the report made on a full hearing, for the obvious reason that he based this finding upon the literature of the league and that is incapable of being changed. Had it been based upon oral testimony then there might be a possibility of contradictory evidence, but it is impossible to change or contradict the printed evidence of the league's literature; therefore it cannot be gainsaid that there is any element of lottery in this plan or system, because in order to have a lottery the plan must depend solely upon chance; where it depends "upon the individual efforts of the members" it does not in any legal sense of the word depend upon "chance." In other words, "in order to have a lottery, the scheme or plan must produce a result by some action or means taken in which man's choice or will has no part."

People v. *Elliott,* 74 Mich., 264.

When man's choice or will performs the most important part of the plan to determine the result, then there is no lottery.

> "Where skill or judgment is exercised in determining the prize winner, there is no lottery."
>
> *Barclay* v. *Pearson* (1893), 2 Chy., 154.

CONCLUSION.

In concluding I wish to again state and urge that Sections 3929 and 4041 Revised Statutes of the United States, and also Section 4 of an act approved March 2, 1895, are unconstitutional and void for the reason that they are in violation of the Fourth and Fifth Amendments of the Constitution of the United States in that said statutes take away from the citizen his property and property rights without due process of law or the least semblance of due process of law as that phrase has been interpreted time and again by the courts; and the said statutes also permit and allow the seizure of papers and property without warrant or authority, and also because said sections and the proceedings thereunder must be held to be void, because even if constitutional in part it is impossible to enforce any of its provisions against improper mail without tying up honest mailable matter.

I am not contending that Congress may not pass laws prohibiting the improper use of the mails and provide for punishment; or do I contend that Congress may not by proper legislation provide that the postmaster general be authorized to institute proper proceedings summarily upon notice before any court, judge in vacation, or other proper tribunal that Congress may fix upon, which may afford reasonable means for inquiry and which conform to the fundamental idea that the party is entitled to some kind of a notice and hearing before he is condemned, and which will give him full opportunity to present his case to the court or a judge, in order that the question involved may be determined according to legal procedure.

But what I do insist on and strenuously urge is that Congress cannot delegate to the postmaster general or any other person the right, whenever he sees fit, upon such evidence as may be satisfactory to him and of which he is the sole judge and from whose decision there is no appeal, to seize, destroy and interdict admitted proper and innocent sealed mail and packages, checks, drafts and money of any person or company in the United States when it has once been admitted to the mail, without any notice or hearing or any opportunity being provided by law whereby the party charged may have an opportunity to present his side of the case. This is what we are contending for and nothing more so far as this record raises the question of the constitutionality of the statutes challenged.

Irrespective of the constitutional question raised in this record upon the merits, I contend and insist that appellant, in carrying on that part of its business wherein it acts as the clearing house or fiscal agent for the members of the League of Equity, has not been guilty of obtaining money through the mails by means of any false or fraudulent pretenses, representations or promises of any kind, and in this connection I wish shortly to state that the master, and the court confirming his report, have found that appellant was not guilty of any violation of the aforesaid provision of the statutes hereinbefore quoted. (Rec., 106.)

In paragraph 8 of the master's report (Rec., 106) the master endeavors to argue that the league must eventually come to an end and that when it does come to an end for any reason, all those who are members at the time when the supposed end arrives will have lost all the money that they may have paid for the benefit of their fellow members.

It is true that in any business if it is brought to a sudden end it will be a loss to those engaged therein; with all the assets, reserve funds, buildings, government bonds, etc., owned by the various life insurance companies there is not one of them, which if brought to an end but what will cause a great loss to all of their policy holders. In the League of Equity as well as in life insurance, it cannot come to an end except by the action of the members themselves. If they cease to fulfill their agreement by paying their monthly share and also do not endeavor to get other persons to join, they will be elapsed of their own volition as is provided for in Section 3 of the co-operator's agreement (Rec., 96), and so it is with life insurance; if the policy holder fails to pay his premiums when they are due his policy becomes forfeited.

I here again wish to reiterate and state that part of the consideration of entering into the league and reaping its benefits, is the promise on the part of the member to co-operate, *i. e.* get new members and pay his monthly share, and by so doing each member has it within his power, and all of them have it within their power to make their own certificates (*i. e.* co-operator's agreements) good and valuable; and for these reasons, upon this phase of the statute I urge upon the court and insist that appellant is not engaged in conducting a business whereby it receives money through the mails by means of false or fraudulent pretenses, representations or promises. The facts in this case are practically admitted as the printed literature and circulars of appellant and its predecessors in evidence cannot be varied or contradicted, and the explanation of the literature as given by the witnesses on behalf of appellant (Rec., 114-136)

has been accepted as being the true construction by the master, and the testimony given by Mr. Haze Morgan, wherein he endeavored to show that fraud and false pretenses were used by the officers of appellant was not sustained and the master found contrary to his testimony. This case therefore comes within the decision of this court in the case of the *American School of Magnetic Healing* v. *McAnnulty, supra;* wherein the court states:

> "Other instances might be adduced to illustrate that these statutes were not intended to cover any case of what the postmaster general might think false in his opinion, *but only cases of actual fraud in fact,* in regard to which opinions form no basis."

I therefore urge that the court below erred in not granting the relief prayed for in the bill of complaint.

Also in concluding I wish to urge upon the court that the master and the court below erred when they found that appellant was guilty of being engaged in conducting a lottery, so-called gift enterprise or scheme for the distribution of money or of any real or personal property by lot, chance or drawing of any kind.

For the reasons I have above pointed out to the court, it is clear in this record that appellant, in acting as the clearing house and fiscal agent for the members of the League of Equity, is not engaged, in any sense of the word, in conducting a lottery, and for the same reasons neither are the members of the League of Equity engaged in conducting or carrying on a lottery through the medium of appellant. One of the essential elements to constitute any scheme a lottery is that if there are prizes they must be awarded by means of lot or chance. This element is entirely lacking in the plan and system of co-operation as applied by the League of Equity, clearing through the appellant. Even if it is conceded that

there are prizes which are awarded, they are not awarded by chance or lot, but upon the contingency of securing one or more new members or paying his monthly share for a period of five years; that is to say, carrying a co-operator's agreement for a period of five years. Neither one of these contingencies is chance because it is entirely within the control of the member holding the agreement whether he procure new members or responds by paying his monthly share and thus keep his certificate in force for the period of five years.

The statutes in question and the prohibition contained therein are penal in their nature. Section 3894, Revised Statutes, is the section which imposes fine and imprisonment upon persons using the mails for improper purposes; and that statute provides, "no letter, postal card or circular concerning any lottery, so-called gift, concert or similar enterprise offering prizes dependent upon lot or chance or concerning schemes devised for the purpose of obtaining money or property under false pretenses, etc."

It will be observed by the court that the wording of Section 3894 is almost identical with the wording of Sections 3929 and 4041. Could it be successfully contended that if the officers of appellant had been indicted under Section 3894, and the proof placed before the court and the jury was the same as is here presented to this court in this record, would not this court hold, as a matter of law, that the testimony showed conclusively that the prisoner was not engaged in conducting a lottery?

What I contend for, is that in construing the section of the statutes challenged, this court must construe them as strictly as they would construe Section 3894 on a criminal charge; and if appellant has not violated any

law of Congress, and if its business does not come within the prohibition of the aforesaid statutes, then appellant is surely entitled at the hands of this court to its legal right to the use of the mails and post-office establishment of the United States.

There is not any controversy of facts in this record, but upon the admitted facts there is a controversy as to whether or not the appellant's business is within the prohibition of the said statutes. For the reasons hereinbefore fully set forth, I maintain and contend that appellant has not violated any law which Congress has passed, and that as appellant's letters contain checks, drafts, money orders and money itself, all of which was its property as soon as deposited in the various post-offices for transmission by mail, appellant is entitled to the relief prayed for in the bill of complaint; otherwise its business as is alleged, would be irreparably injured and wronged.

I, therefore, respectfully submit and urge upon this court and ask that the judgment of the United States Circuit Court for the Northern District of Illinois, be reversed and said court order to be issued a perpetual injunction restraining and prohibiting the appellee, in his official capacity as postmaster of the City of Chicago, from proceeding further under the so-called fraud order issued by the postmaster general November 10, A. D. 1902, which said fraud order was issued under the sections of the statutes hereinbefore quoted, and that he be ordered to turn over and deliver to appellant with regularity and dispatch all mail matter whih may now be in his possession or which may hereafter come to his pos-

session addressed to appellant, and that he be directed to give to appellant the ordinary use of the registered letter and post-office money order provisions of the post-office establishment of the United States.

Respectfully submitted.

D. I. SICKLESTEEL,
Counsel for Appellant.

In the Supreme Court of the United States.

OCTOBER TERM, 1903.

THE PUBLIC CLEARING HOUSE, appellant,
v.
F. E. COYNE, AS POSTMASTER OF THE CITY of Chicago, in the State of Illinois, appellee.
No. 224.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

BRIEF FOR THE UNITED STATES.

STATEMENT OF THE CASE.

This was a bill in equity filed in the circuit court of the United States for the northern district of Illinois to restrain F. E. Coyne, as postmaster of the city of Chicago, in the State of Illinois, from depriving the complainant of the use and privileges of the United States mails.

The bill charges in substance that the complainant is a corporation organized under the laws of the State of Illinois "to do a general brokerage and commission business, to collect and disburse

money, to conduct an exchange and information bureau for patrons, and to act as agent for patrons for the aforesaid objects and purposes;" that it was proceeding with its business and had been appointed the fiscal agent of a voluntary association called the League of Equity, and that the use and privileges of the United States mails, which it enjoyed until November 13, 1902, are indispensable to the success of the work it had undertaken; that on the 10th day of November, 1902, the Postmaster-General, acting "under and by virtue of sections 3929 and 4041 of the Revised Statutes of the United States, as amended," addressed to the defendant as postmaster at the city of Chicago, Ill., what is commonly known as a "fraud" order, in pursuance of which the said postmaster, on and since the 13th day of November, 1902, has stopped, prevented, and prohibited the delivery and distribution to the complainant of sealed letters, packages, packets, registered letters, and other matter addressed to it and received in the ordinary course of the mail at the United States post-office at Chicago, and has stopped, prevented, and prohibited the payment to the complainant of post-office money orders in its favor, all to its irreparable damage and injury. Then, after denying the facts upon which the order was based, that is, after denying that complainant is engaged in promoting any lottery or gift enterprise or any sort of fraudulent scheme, as charged by the Postmaster-

General, the bill alleges that the statutes under which the Postmaster-General issued the order in question "are in violation of the fourth, fifth, and fourteenth amendments of the Constitution of the United States and other provisions of the Constitution of the United States, in that the same undertakes to deprive persons of property and would deprive your orator, if enforced, of its property and property rights without due process of law; and in fact it attempts and if enforced will place in power of the postmasters of the United States and of the Post-Office Department of the United States the sole and exclusive right to pass upon the rights of your orator as between itself and other parties with whom it deals and transacts business through the mails without a hearing, and that said sections and provisions of the statute are void for the reason that they provide for no tribunal, court, or authority to hear and determine any violation of the statute, or claimed violation of the statute, but placed the same absolutely in the power and control of the postmasters and the Post-Office Department, and attempts to vest an arbitrary discretion in the postmasters and the Post-Office Department to determine for themselves, as they see fit, whether right or wrong, the question as to who shall and who shall not have and receive mail from the United States Post-Office Department, and who shall and who shall not use the United States mails, and vests in them

the power, if enforced, to interdict and absolutely prohibit the carrying on of all commercial and business transactions of the country done through the mailing system if they see fit to do so, and makes the postmasters and Post-Office Department the sole judges in their own case."

It was also alleged that sealed letters, *with the address of the senders thereon*, were sent to the Dead-Letter Office and opened. As might have been expected, this allegation was not established by evidence. So far from authorizing any such arbitrary proceeding, the statutes in express terms prohibit it, and the Postmaster-General's order directs that such letters be returned to the senders in accordance with the terms of the statutes.

The bill concludes with a prayer that the defendant be enjoined from depriving complainant of the use and privileges of the United States mails.

The defendant answered the bill and also demurred to it. The demurrer does not seem to have been pressed. The answer denies that the complainant has been or is doing the business for which it was organized, and then goes on to allege, among other things, that the complainant and the League of Equity referred to in the bill are successors to the League of Educators, against which the Postmaster-General, under date of October 22, 1902, issued a "fraud" order, which is still in force, having always been acquiesced in; that, with the intention of evading that order, the persons who had conducted the League of Educators caused

the complainant corporation to be organized for the purpose of continuing the enterprise of the said League of Educators; that the scheme operated by the complainant corporation is fraudulent in its design as well as a lottery, and was so found to be by the Postmaster-General, whose duty it is to determine those questions in the first instance. The answer then continues the recital of the facts which led the Postmaster-General to issue a "fraud" order against the League of Educators, and concludes:

> This defendant further says that the said plan of operation of the complainant and its employees, and those promoting it, is a violation of the Federal laws for the suppression of lotteries; that the amount of money that any of the patrons shall receive depends upon chance—that is, it is a matter of chance as to how many new members will join or whether any will join—that is, the amount that the patrons shall receive depends, and will depend, upon contingencies over which the parties to the transaction (the parties, in the case of The Public Clearing House, being the individual member expecting his endowment on the one side and the promoters and all other members on the other side) have no control and which they can not forecast.

Complainant joined issue by filing a general replication. The cause was thereupon referred, with the consent of the parties, to a master in chancery, to take the testimony therein and report

the same, with his conclusions, to the court. The master's conclusions, in brief, were (1) that the plan or scheme of the complainant is a lottery, and (2) that sections 3929 and 4041 of the Revised Statutes, as amended, in pursuance of which the aforesaid "fraud" order was issued, are not unconstitutional.

The circuit court, overruling the complainant's exceptions, confirmed the master's report, and entered a decree dismissing the bill for want of equity; whereupon the complainant appealed directly to this court, under section 5 of the Circuit Court of Appeals Act of 1891.

Under the practice of this court the findings of the master, which were confirmed by the trial court, will not be disturbed "unless *clearly* in conflict with the weight of the evidence upon which they were made." (*Kimberly* v. *Arms*, 129 U. S., 512, 525.) "* * * the conclusions of the master, depending upon the weighing of conflicting testimony, have every reasonable presumption in their favor, and are not to be set aside or modified unless there *clearly* appears to have been error or mistake on his part." (*Tilghman* v. *Proctor*, 125 U. S., 136, 149, citing *Medsker* v. *Bonebrake*, 108 U. S., 66; *Donnell* v. *Columbian Ins. Co.*, 2 Sumner, 366, 371; *Mason* v. *Crosby*, 3 Woodb. & Min., 258, 269; *Paddock* v. *Commercial Ins. Co.*, 104 Mass., 521, 531; *Richards* v. *Todd*, 127 Mass., 167, 172.)

The following errors were assigned on appeal:

First. The court erred in not adjudging that the statutes in question were unconstitutional and void.

Second. The court erred in overruling the complainant's exceptions to the report of William M. Booth, master in chancery, to the court.

Third. The court erred in ordering and adjudging that the report of said master in chancery to the court be confirmed.

Fourth. The court erred in refusing and denying to the complainant an injunction as prayed for in the bill of complaint.

Fifth. The court erred in dismissing the complainant's bill of complaint for want of equity.

The thirty-fifth rule of this court makes the following provision concerning the assignment of errors:

1. Where an appeal or a writ of error is taken from a district court or a circuit court direct to this court, under section 5 of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, the plaintiff in error or appellant shall file with the clerk of the court below, with his petition for the writ of error or appeal, an assignment of errors, which shall set out *separately* and *particularly* each error asserted and intended to be urged. No writ of error or

> appeal shall be allowed until such assignment of error shall have been filed. When the error alleged is to the admission or to the rejection of evidence, the assignment of errors shall quote the full substance of the evidence admitted or rejected. When the error alleged is to the charge of the court, the assignment of errors shall set out the part referred to *totidem verbis*, whether it be in instructions given or in instructions refused. Such assignment of errors shall form part of the transcript of the record, and be printed with it. When this is not done counsel will not be heard, except at the request of the court; and errors not assigned according to this rule will be disregarded, but the court, at its option, may notice a plain error not assigned.

It is evident, therefore, that complainant's assignment of errors raises but one issue for the decision of this court, namely, the constitutionality of sections 3929 and 4041 of the Revised Statutes, as amended. In respect of any other issue attempted to be raised the assignment is inadequate, in that it fails to set out the alleged error "*separately and particularly*" as required by the rule of court. However, the assignment could have raised but one other material issue, to wit, whether the complainant's plan or scheme is a lottery; that is to say, whether it is within the purview of the statutes in question; and that it is will necessarily appear in the further statement of the case now to be made.

In his report to the court, the master states the following conclusions of fact, *inter alia*, to which no material exceptions were taken, to wit:

> 1. The complainant is a corporation organized under the laws of the State of Illinois, for the purpose, as stated by its charter, of doing a general brokerage and commission business, collecting and disbursing money and conducting an exchange or information bureau for the benefit of patrons. The evidence shows that the said complainant had made a beginning of several different kinds of business and its managers had opened negotiations with different laundry proprietors, preparing to place laundries on a cooperative basis; also to handle fruits and poultry in the same manner, and also to purchase and sell goods on behalf of its patrons on commission and to exchange goods in specie in the same manner for a commission, and had actually transacted some small amount of such business, but the principal business and object for which the said complainant was organized appears to have been to act as the fiscal agent of a certain voluntary association called the League of Equity. This League of Equity consists of a large number of people, approximately five thousand at present, of various occupations, and scattered throughout the United States and Canada, each of whom in his application for membership, consents that the Public Clearing House shall act as fiscal agent for said

League of Equity. The said League of Equity was in a way successor to a prior organization called the League of Educators, and this in turn succeeded to a still prior organization called the League of Eligibles, and a certain organization or partnership called the board of managers of the League of Educators and the board of managers of the League of Eligibles were respectively fiscal agents for the two organizations.

The League of Eligibles was established in the year 1898, and was a voluntary association of unmarried people. Their certificates became matured or realized upon the contingency of marriage, provided that such marriage did not occur within one year from the time when they joined the league. The certificate had a fixed realization value of five hundred dollars, and was paid out of the monthly *pro rata* assessment levied upon all members of the league for the benefit of those members whose certificates were matured or realized.

The plan of the League of Educators was the same, except that it substituted a fixed time for the realization of the certificates, and eliminated the marriage-contingency feature.

2. The plan of the League of Equity differed from that of the League of Educators only in having a fixed monthly payment of one dollar, instead of a fluctuating or variable assessment. When the first change was made there were about

thirteen hundred members of the League of Eligibles, all of whom were given an opportunity to become members of the League of Educators without additional cost and without losing the benefit of their previous term of cooperation, and many of them availed themselves of this opportunity and became members of the League of Educators. Again, when the League of Equity was formed the League of Educators consisted of some nine thousand members, who were allowed the same privilege of joining the League of Equity, and up to the time when the fraud order was issued against the latter concern between four and five thousand of the members of the League of Educators had joined the League of Equity.

3. The evidence showed that up to about the 1st of November, 1902, during the period of the existence of the League of Eligibles and League of Educators, there had been collected from about 13,784 members a total of $137,390.66, out of which the board of managers had taken about $36,000 for their expenses and compensation for themselves and agents in the field. The remainder had been distributed among some 600 or 700 members, and at that time the board of managers had no money in their hands.

* * * * *

5. The complainant, The Public Clearing House, as such fiscal agent of the League of Equity, invites people to join the said league and holds out inducements in the shape of a large return for small amounts of money and

for services to be rendered by members of cooperators in inducing others to become members or cooperators. There is no contract or agreement issued or entered into with members by the League of Equity itself as a body or association, but a certain so-called cooperator's agreement, a copy of which is attached to the bill herein, is issued to each member or cooperator and is signed by said Public Clearing House by its president and secretary as fiscal agents for the League of Equity.

* * * * *

6. The plan or scheme of the League of Equity, as set forth in the cooperator's agreement and in other literature issued by said complainant, may be briefly stated as follows: Each person who becomes a member or cooperator pays three dollars as enrollment fee and agrees to pay the sum of one dollar per month for sixty months, or five years, and also agrees to "cooperate" by inducing other persons to become members or cooperators. The agreement states that in consideration of said enrollment fee, "and the faithful compliance with the terms of this agreement hereinafter contained, the above-named person shall receive his *pro rata* share of the total amount realized (less ten per cent) when entitled to a realization as hereinafter provided, said realization to be in accordance with the following ordinary causation and realization table." Then follows a table showing that if the league grows at the rate of fifteen to one [instead

of "fifteen to one" complainant claims that the finding should have been "fifteen to one for five years." The difference is not important] the total realization of the member at the end of five years will be at the same rate of increase—that is, he will receive nine hundred dollars for his sixty dollars paid in; if the growth is at the rate of ten to one [for 5 years] he will receive six hundred dollars at the end of five years, and so forth and so on down to a growth of only one to one, in which case he will receive only his money back, less the ten per cent which is in each case deducted as the compensation of the complainant for its services and existence as fiscal agent, and less also the three dollars enrollment fee. Aside from this ten per cent and the three dollars enrollment fee, the plan does not contemplate that complainant shall retain any of the money paid in by cooperators or that any reserve fund shall be accumulated or invested, but that the money paid in each month shall be regularly paid out each month (less ten per cent) to the so-called realizing cooperators; i. e., those whose five years' period has expired and who have continued to make the requisite monthly payments during said five years. There is an additional provision that each cooperator who shall have secured three new members in any one year may realize or receive at the end of each year one-fifth of the amount which he would be entitled to receive at the end of five years, assuming that the growth for the five years

continued at the same rate; but the plan contemplates that in the end the member who secures new members and the one who does not shall receive the same amount.

7. All members who join the League of Equity during the same month constitute a class by themselves, and are entitled to realize in all respects precisely the same amount and at the same time, excepting the member who obtains new cooperators may receive his realization in yearly installments instead of in one lump at the end of the five years' period.

The only source of income to the league, and the only funds to which its members can look for payment of the promised amount or any amount whatever, is the fund created each month by the payment of monthly dues, and the realization of any amount whatever by the *new* members is conditioned absolutely upon the constant acquisition of other new members and the new payments to be made by such new members; and what amount the members or cooperators will realize, as is stated by the league literature, depends entirely upon the ratio of growth of the league. No reserve fund is accumulated and no investments whatever are made of any portion of the money paid in by members.

* * * * *

8. It is perfectly evident that to enable any given set of cooperators to receive any large return for the amount paid by them, for instance fivefold, it will be necessary

that there should be a fivefold growth in the league, and that when the league has so grown fivefold it will be necessary, in order for the last number to receive an equally large return, that the growth be again fivefold, and so on *ad infinitum* (with the certainty that the end must come some time, and that when the end does come substantially all who have joined and paid their money during the last four years of existence of the league will lose absolutely all that they have paid in).

[The complainant excepted to the clause inclosed in parentheses.]

The master also found that:

13. The evidence showed that in this case the complainant had a full hearing before the Assistant Attorney-General for the Post-Office Department, whose duty is especially to act in such matters as this, and had an opportunity to present its reasons why the fraud order should not issue; and further showed not only that the latter official's report with the evidence was transmitted to and examined by the Postmaster-General, but that the Postmaster-General granted to the president of complainant the privilege of a personal interview on the same subject before acting in the matter and issuing the fraud order in question.

Complainant excepted to this finding, but the evidence clearly supports it. (Rec., p. 139.)

The facts thus found by the master, and to which no material exceptions were taken, clearly

constitute a lottery; and such was the conclusion of the master and the trial court. There is the small payment with the possibility or chance of a "realization" or prize, which may be large or small, according as the increase in membership is large or small; and if there is no increase in membership there is no realization—no prize.

The prize or winning of any member of the league consists of the difference between the amount he pays in as dues and the amount he draws out as his "realization." This difference is not earned by him or by money, property, or service contributed by him. He gets something for nothing. It can not be said that he earns it by securing new members, because, on the complainant's own theory, a member who secures twenty new members "realizes" no larger sum than a member who secures no recruits at all. (Rec., p. 143.) And the money he pays in does not earn anything, because no money is ever invested or otherwise turned to account. In order to win or "realize"—in order to get something for nothing—the member takes the risk or chance of the membership of the league growing or ceasing to grow. If it grows at the rate of 15 to 1 for the five years during which his membership runs he will receive fifteen times as much as he paid in; if the rate of growth is only 1 to 1 he will get back just what he put in, less the 10 per cent deducted as compensation; if it stops growing altogether—if no one joins after him—he gets nothing; he draws a blank.

Now, there is no source from which members may be paid the "realizations" as they mature, except the fixed monthly dues, and these are paid out each month, as received, to "cooperators" who "realize" during that month—that is, to "cooperators" who have paid their monthly dues for five years. Thus no funds remain on hand, and hence, when new members cease to come in—when monthly dues cease to be paid—"realizations" will cease to be paid and the end has come. Complainant's own witnesses admit that it is possible for the scheme to come to an end by the failure to obtain new members—that is, they admit that there may be a "last man." One of complainant's witnesses testified as follows:

> Q. Then it is possible to have a last man?
>
> A. No, sir; I do not say that.
>
> Q. Is it possible to have a last man if there are 5,000 cooperators in the league all quit at present, and one joins to-day, the only one that joins this month, and no members join during the next five years?
>
> A. (Continued.) Why, that is a supposition case.
>
> Q. Is that possible, assuming that that case might happen?
>
> A. You would positively know that is a fact, if one joins, and nobody else, in five years.
>
> Q. I am asking you.
>
> A. What is the question?
>
> (Question read.)

> Mr. CHILDS. Add to that question, "possible that there be a last man."
>
> A. That there would be an assumed last man. Yes; on that supposition. (Record, p. 136.)

Another witness for complainant made this statement:

> My confidence that there would be no *last man* is based entirely on what I believe to be the ability of the present membership to secure new members. (Record, p. 138.)

This clearly amounts to an admission that, if the old membership is unable to secure new members, there would be a "last man;" in other words, that the enterprise would come to an end. And when the end does come, as it must in all such schemes, the persons who joined and paid their dues during the last four years of the league's existence will lose all they paid in. The very life of the enterprise therefore depends wholly upon chance—upon the chance of an uninterrupted accession of new members. And, assuming that "chance" has decided in favor of prolonging the life of the league, the element of hazard does not end there, for "chance" still remains to determine (as already pointed out) whether the drawings or "realizations" shall be large or small, according as the increase in membership is large or small.

Mr. Bishop, in his work on Statutory Crimes (sec. 952), defines a lottery to be—

> Any scheme whereby one, in paying money or other valuable thing to another, becomes entitled to receive from him such return in value or nothing, as some formula of chance may determine.

The definition in Worcester's Dictionary, quoted by the Supreme Court in the case of *Horner* v. *United States* (147 U. S., 449, 459), is:

> A distribution of prizes and blanks by chance; a game of hazard, in which small sums are ventured for the chance of obtaining a larger value, either in money or in other articles; * * *.

The foregoing facts plainly come within these definitions of a lottery, and hence constitute a case within sections 3929 and 4041 of the Revised Statutes, as amended, as the master in chancery and the circuit court both found. The question before the court, therefore, is whether said sections 3929 and 4041 of the Revised Statutes, as amended, violate any provision of the Constitution.

The statutes in question read as follows:

> SEC. 2. That section thirty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended to read as follows:
>
> "SEC. 3929. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing

of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-office at which registered letters arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation, or association of any kind, to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word 'Fraudulent' plainly written or stamped upon the outside thereof; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device that remittances for the same may be made by registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein; but the Postmaster-General shall not be precluded from ascertaining the existence of such

agency in any other legal way satisfactory to himself."

SEC. 3. That section four thousand and forty-one of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4041. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, forbid the payment by any postmaster to said person or company of any postal money-orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money-order. But this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by means of postal money-orders to any other person, firm, bank, corporation, or association named

therein shall be held to be prima-facie evidence of the existence of said agency by all the parties named therein; but the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way." (Approved Sept. 19, 1890. 26 Stat. L., 466.)

SEC. 4. That the powers conferred upon the Postmaster-General by the statute of eighteen hundred and ninety, chapter nine hundred and eight, section two [being the above quoted section 2], are hereby extended and made applicable to all letters or other matter sent by mail. (Approved Mar. 2, 1895. 28 Stat. L., 964.)

It is claimed that these statutes are unconstitutional in that they—

I. Deprive complainant of its property without due process of law—that is, without a judical hearing.

II. Confer judical power upon the Postmaster-General, an executive officer.

III. Subject complainant's papers and property to unreasonable searches and seizures.

The designation "sections 3929 and 4041 of the Revised Statutes as amended," wherever used in this brief, includes section 4 of the act approved March 2, 1895.

THE ARGUMENT.

Inasmuch as complainant claims that the case of *The American School of Magnetic Healing* v. *McAnnulty*, decided by this court at its last term, and reported in 187 U. S., at page 94, is conclusive of the

case at bar, the Government will preface its argument with a brief statement of its view of that case. That view is that the court simply decided that the action of the Postmaster-General there complained of was unauthorized by sections 3929 and 4041, as amended, in any view of the facts that might be taken; in other words, that the facts proved did not show a case within the operation of the statutes; and in holding that such action could be reviewed by the judiciary the court did not lay down any new principle nor overrule any old one, but was in direct line with its previous decisions in *Noble* v. *R. Co.* and *New Orleans* v. *Paine*, reported in 147 U. S., at pages 165 and 261, respectively. In *Noble* v. *R. Co.* the court expressly referred to the rule (laid down in *Gaines* v. *Thompson*, 7 Wall., 347, and many other cases) that, while the judiciary could compel the performance of a ministerial duty, it could not interfere with the performance of a duty involving the exercise of judgment and discretion, and said that it was entirely consistent with the rule that the courts would prevent an executive officer from doing acts which, in any view of the facts, are ultra vires—that is, outside the statute under which he assumes to act.

The constitutionality of sections 3929 and 4041, Revised Statutes, as amended, was, it is true, challenged by counsel in the Magnetic Healing case, but the court decided the case on another point, and by express language (p. 111 of the report) left

the constitutional questions open. These questions may now be discussed, therefore, without embarrassment.

I.

Do sections 3929 and 4041 of the Revised Statutes, as amended, deny due process of law?

II.

Do said sections confer judicial power upon the Postmaster-General?

III.

Do they subject private papers and property to unreasonable searches and seizures?

The questions, whether sections 3929 and 4041 of the Revised Statutes, as amended, confer judicial power upon the Postmaster-General, and whether they subject papers and property to unreasonable searches and seizures, are included in the larger question, whether said sections deny due process of law; for if it shall be shown that they do not deny, but provide, due process, it will necessarily follow that they do not confer judicial power upon the Postmaster-General or subject private papers and property to unreasonable searches and seizures. Complainant's contentions will, therefore, be considered together.

Do sections 3929 and 4041 of the Revised Statutes, as amended, deny due process? It is not intended to tax the patience of the court with an extended or academic discussion of a subject so

fundamental as due process of law or the law of the land. All that is intended—all that is proper or necessary—is to inquire whether the particular acts of Congress which have been drawn in question satisfy the constitutional guaranty of due process.

First. The term "due process of law" is not confined to judicial process; it includes administrative process as well. And property may be seized and detained, at least temporarily and conditionally, by an administrative officer, acting under administrative process, without in any way violating the law of the land. Said Cooley, J., in *Weimer* v. *Bunbury* (30 Mich., 201):

> There is nothing in these words ("due process of law"), however, that necessarily implies that due process of law must be judicial process. Much of the process by means of which the Government is carried on and the order of society maintained is purely executive or administrative. *Temporary deprivation of liberty or property must often take place through the action of ministerial or executive officers or functionaries, or even of private parties*, where it has never been supposed that the common law would afford redress.

This rule is dictated by necessity as well as reason. If, without exception, whenever any private right is challenged by the State, the question must be submitted, in the first instance, to the comparatively slow processes of judicial determination, it is not putting it too strong to say that the result

must be fatal to the efficiency of government and the good order of society. Take the postal system itself as an illustration. In the very statutes which complainant has attacked, Congress has enacted, in the interest of public morality, that mail matter addressed to persons engaged in lotteries and fraudulent enterprises shall be denied the privileges of the mails. Now, there is a multiplicity of cases where persons seek to use the mails in violation of the letter and spirit of these enactments, and if it were required in every case that before he could be deprived of the privileges of the post, it must be *finally and judicially* determined that the person complained against was engaged in one of the inhibited enterprises, then not only would the judiciary be burdened with an immense volume of new work, but, during the litigation, which would often be long drawn out (judicial procedure being far less summary than executive), the mails would be flooded with the obnoxious matter, thus defeating in a large measure the beneficent purpose of Congress.

It is, therefore, no argument against the constitutionality of sections 3929 and 4041, Revised Statutes, as amended, that they do not provide for a judicial hearing in the first instance—that the first step in their enforcement is taken by an administrative officer under administrative process—and their validity must be affirmed unless the court is convinced on other grounds, that their enactment was an "*arbitrary* exercise of the

powers of government unrestrained by the established principles of private right and distributive justice." (*Bank of Columbia* v. *Okely*, 4 Wheat., 235.) The next step, therefore, will be to show that the statutes in question are not *arbitrary*—that they do not attempt to dispose of rights by arbitrary methods.

Second. These statutes, as construed by this court (*American School of Magnetic Healing* v. *McAnnulty*, *supra*) do not deprive complainant of its "*right*" to use the mails without a judicial hearing.

Congress may prescribe what shall be admitted to and what shall be excluded from the mails, and the power has no limitation, except that the basis of admission and exclusion must be reasonable and free from unjust discrimination. (*Ex parte Jackson*, 96 U. S., 727; *In re Rapier*, 143 U. S., 110.) That being the case, no one can claim a "right" to use the mails for the transmission of matter which Congress has properly declared to be nonmailable, and hence no question of the deprivation of a right can possibly arise until it is charged that matter which under the regulations of Congress is mailable has been excluded, and, under the decision in the Magnetic Healing case, whenever that charge is made—i. e., whenever the question of right is raised—it will be heard by the courts in an appropriate proceeding, and relief given if deserved.

The action of the Postmaster-General under the statutes in question no more involves the exercise of judicial power than do "all those administrative duties the performance of which involves an inquiry into the existence of facts and the application to them of rules of law." (Per Mr. Justice Curtis in *Murray's Lessee* v. *Hoboken Land and Imp. Co.*, 18 How., 272, 280.) He does not undertake to adjudicate upon any right; he simply administers a postal regulation made by Congress. If, in the performance of that duty, as he sees it, he invades any vested right, the courts may be appealed to for redress. And so in the case at bar, if complainant considers its right to use the mails to have been violated by the Postmaster-General, in other words, if it contends that that officer's finding that it is engaged in a fraudulent or lottery enterprise is without foundation and unreasonable, it may, under the decision in the Magnetic Healing case, *supra*, be heard (and it has been heard) on that question in a court of justice. And that is all the Constitution requires; that is due process of law. The fact that the judicial hearing is postponed a stage does not make the proceeding any the less due process, so long as the postponement is not unreasonable or oppressive; and it can not be said in this case that the postponement is unreasonable or oppressive, because the party considering himself aggrieved by the action of the Postmaster-General may appeal to the courts at

once. The language of the supreme court of Indiana in the case of *Flournoy* v. *The City of Jacksonville* (17 Ind., 169, 173, 174), where a somewhat similar state of facts was presented and the same contention made as here, covers the case in hand at every point, to wit:

> The case is very like that of *Maynes* v. *Moore* (16 Ind., 116), where the auditor of State, a ministerial officer, was authorized to issue the writ commanding satisfaction, but which, if the party did not see fit to obey, he could enjoin, and thus transfer his cause to a court by injunction.
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> * * * * *
>
> The provision is not unconstitutional because it deprives a party of a right without a judicial hearing and trial by jury. As in the Maynes case by injunction, expressly authorized by statute as a part of the remedy, so here by appeal from the issue of the precept, the writ, the party can transfer his case to a judicial tribunal, and demand the right of trial by jury. The remedy is not an onerous, a burdensome one, even.
>
> The provision is not unconstitutional because it authorizes a ministerial act by which possession of property is taken *before* the right to it has been judicially determined. This is done in cases of attachment and replevin, without objection, and is a matter in the discretion of the legislative power in creating remedies. It must not deprive a party of his property without a judicial hearing; *but the stage of proceedings*

> *at which that hearing shall take place*—the manner, in short, in which the cause of a party shall be got before the judicial tribunal, so it is not an unreasonably inconvenient and embarrassed one—*is with the legislative power*. (*The New Albany, &c., R. Co.* v. *Connelly*, 7 Ind., 32.)

The contention of the Government under this head is also sustained by the decision of this court in the case of *Chicago, &c., Ry. Co.* v. *Minn.* (134 U. S., 418), a case we expect to see cited on behalf of complainant. The question there was as to the constitutionality of a statute of the State of Minnesota which established a railroad commission and undertook to clothe it with the power to make rates which would be *final and conclusive*. Mr. Justice Blatchford, in delivering the opinion, said:

> The construction put upon the statute by the supreme court of Minnesota must be accepted by this court, for the purposes of the present case, as conclusive and not to be reexamined here as to its propriety or accuracy. The supreme court authoritatively declares that it is the expressed intention of the legislature of Minnesota, by the statute, that the rates recommended and published by the commission, if it proceeds in the manner pointed out by the act, are not simply advisory, nor merely *prima facie* equal and reasonable, but *final and conclusive* as to what are equal and reasonable charges; that the law neither contemplates nor allows any issue to be made or inquiry to be had as

to their equality or reasonableness in fact, that, under the statute, the rates published by the commission are the only ones that are lawful, and therefore in contemplation of law the only ones that are equal and reasonable; and that in a proceeding for a mandamus under the statute, there is no fact to traverse except the violation of law in not complying with the recommendations of the commission. In other words, although the railroad company is forbidden to establish rates that are not equal and reasonable, there is no power in the courts to stay the hands of the commission, if it chooses to establish rates that are unequal and unreasonable.

This being the construction of the statute by which we are bound in considering the present cases, we are of opinion that, so construed, it conflicts with the Constitution of the United States in the particulars complained of by the railroad company. It deprives the company of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy, and substitutes therefor, as an *absolute finality*, the action of a railroad commission which, in view of the powers conceded to it by the State court, can not be regarded as clothed with judicial functions or possessing the machinery of a court of justice.

> In view of the opinion delivered by that court (the State supreme court), it may be impossible for any further proceedings to be taken other than to dismiss the proceeding for a mandamus, if the court should adhere to its opinion that, under the statute, *it can not investigate judicially the reasonableness of the rates fixed by the commission.*

The plain inference from this language (and this inference is confirmed by the decision in *Reagan* v. *Farmers L. & T. Co.*, 154 U. S., 362) is that this court would have held the Minnesota law to be constitutional if the supreme court of that State had held that the judgment of the railroad commission as to what rates are just and reasonable was not final, but open to review, if disputed, in a judicial proceeding. The court in effect decided, either expressly or by necessary implication, that the railroad commission, acting under statutory authority, might, in the first instance, say what rates are reasonable, but that if their reasonableness were challenged, it would raise a judicial question which must be submitted to a court for decision; that until such challenge is made no right is drawn in question—no issue is raised for the judicial power to act upon. And the power which the court thus conceded might be conferred upon the railroad commission is of precisely the same character and scope as that conferred upon the Postmaster-General by sections 3929 and 4041 of the Revised Statutes, as amended. Under those statutes the Postmaster-General may, in the first

instance, determine what matter shall be denied the privileges of the mails, but when the correctness and reasonableness of his determination are disputed—that is, when it is contended that he has attempted to exclude matter which the law does not declare to be nonmailable—a judicial question is raised, the decision of which must be left to the courts (*American School of Magnetic Healing* v. *McAnnulty*, *supra*); but until his determination in a particular case is so disputed no right is brought in issue and there is nothing for the judicial power to act upon. If, therefore, statutes authorizing railroad commissions to establish rates—the reasonableness of which is subject to judicial review—do not deny due process, it is difficult to see wherein sections 3929 and 4041 of the Revised Statutes, as amended, are open to that objection.

But if the argument up to this stage were wholly without force, the Government could still rest its case with confidence upon the analogy between, or rather the identity of, the power vested in the Comptroller of the Currency by the national banking law, a power which has been repeatedly sustained and upheld by this court (*Kennedy* v. *Gibson*, 8 Wall., 498; *Casey* v. *Galli*, 94 U. S., 673; *United States* v. *Knox*, 102 U. S., 422; *Bushnell* v. *Leland*, 164 U. S., 684), and the power vested in the Postmaster-General by sections 3929 and 4041 of the Revised Statutes, as amended. The national banking law (Revised Statutes, sec. 5234;

1 Sup. to Revised Statutes, p. 107) authorizes the Comptroller of the Currency to appoint receivers for and to close insolvent national banks, while sections 3929 and 4041 of the Revised Statutes, as amended, authorize the Postmaster-General to refuse to forward mail matter addressed to persons engaged in lotteries or fraudulent enterprises; and it is left to the Comptroller to determine when a national bank is insolvent, just as it is left to the Postmaster-General to determine when a person is engaged in a lottery or fraudulent scheme. Doubtless if it were claimed that either officer had acted outside his authority—that is, had closed a bank which was not insolvent or denied the privileges of the mails to a person not engaged in promoting a lottery or fraud—the courts could be appealed to for redress, since such a claim would raise an issue which none but the judicial power would be competent to pass upon. (*United States* v. *Knox*, 102 U. S., 425; *American School of Magnetic Healing* v. *McAnnulty*, *supra*.) Now, if there is any difference between the power thus vested in the Comptroller of the Currency and that vested in the Postmaster-General, it is that the former—the power to close a business and appoint a receiver to take charge of it—is much more judicial in its nature and far-reaching in its effects; and if the one is a constitutional power—is due process of law—certainly the other must be. In the last case where this power of the Comptroller was questioned, the case of *Bushnell* v.

Leland (*supra*), this court, Mr. Justice White delivering the opinion, said (pp. 685, 686):

> All these alleged errors may be reduced to the single contention that under the national banking law the Comptroller of the Currency is without power to appoint a receiver to a defaulting or insolvent national bank, or to call for a ratable assessment upon the stockholders of such bank, *without a previous judicial ascertainment of the necessity for the appointment of the receiver and of the existence of the liabilities of the bank, and that the lodgment of authority in the Comptroller, empowering him either to appoint a receiver or to make a ratable call upon the stockholders, is tantamount to vesting that officer with judicial power in violation of the Constitution.*
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> All of these contentions have been long since settled, and are not open to further discussion. (*Kennedy* v. *Gibson*, 8 Wall., 498; *Casey* v. *Galli*, 94 U. S., 673; *United States* v. *Knox*, 102 U. S., 422.) When, after the adjudication in *Kennedy* v. *Gibson*, the questions were for a second time pressed in argument, the court contented itself with calling attention to the fact that they had been affirmatively adjudicated upon and were concluded. We see no reason now to reopen controversies which were then treated as concluded and have since been approved and in all respects fully affirmed. * * * A causual inspection of the points pressed by counsel in *Casey* v.

Galli makes evident the fact that the very arguments now advanced were then urged upon the court and held to be untenable.

Third. There is yet another course of reasoning by which to show that sections 3929 and 4041 of the Revised Statutes, as amended, do not deny due process. Those sections were enacted in the exercise of the police power of Congress—or an equivalent power—over the postal system. They are police regulations made in the interest of the public good and morality. That Congress is vested with the police power, or its equivalent, in respect of the postal service is no longer disputed. In the case of *In re Rapier* (143 U. S., 110), the constitutionality of an act of Congress making it a misdemeanor to deposit in the mails lottery tickets, etc., was attacked. The Government contended that the act was valid as an exercise of police power, and its contention was sustained. Mr. Chief Justice Fuller, speaking for the court on that occasion, said:

> The States before the Union was formed could establish post-offices and post-roads, and in doing so could bring into play the *police power* in the protection of their citizens from the use of the means so provided for purposes supposed to exert a demoralizing influence upon the people. When the power to establish post-offices and post-roads was surrendered to the Congress it was as a *complete* power, and the grant carried with

> it the right to exercise *all the powers* which made that power effective. It is not necessary that Congress should have the power to deal with crime or immorality within the States in order to maintain that it possesses the power to forbid the use of the mails in aid of the perpetration of crime or immorality.

Certainly, then, if the States surrendered to Congress their whole power over the postal system, the grant must have included the police power or its equivalent, and therefore sections 3929 and 4041 of the Revised Statutes as amended, having been enacted to prevent immorality and fraud, are of the nature of police regulations, which the Postmaster-General is authorized to enforce. Now, it has always been conceded, we believe, that an administrative officer charged with the execution of the law may enforce a police regulation against a person or subject-matter without it being *judicially* ascertained beforehand that the person or subject-matter is within the scope of the regulation (leaving it to courts to determine afterwards, in case the issue is raised, whether any vested right was invaded in the enforcement of the regulation). To hold otherwise would absolutely destroy the efficiency of those police regulations upon which the safety—indeed, the very existence of society depends. What, for example, would be the value of quarantine laws, inspection laws,

health regulations, and the whole system of municipal police, if, before the law could be enforced in a particular case, it had always to be determined by a court whether the case came within the operation of the law? Judicial procedure is, of necessity, slow, deliberate, while regulations of the kind described, to be of any force, must be capable of immediate execution as occasion arises, without the preliminary of a judicial or any other hearing.

This principle is fundamental, and its validity may be said to be universally assumed and acted upon by legislatures and courts, and therefore only a few leading instances of its application will be referred to.

Dent v. *West Virginia* (129 U. S., 114). This case raised the question of the constitutionality of a statute of West Virginia which requires every practitioner of medicine in the State to obtain a certificate from the State board of health that he is a graduate of a reputable medical college in the school of medicine to which he belongs; or that he has practiced medicine in the State continuously for ten years prior to March 8, 1881; or that he has been found upon examination to be qualified to practice medicine in all its departments, and which subjects a person practicing without such certificate to prosecution and punishment for a misdemeanor. The plaintiff, who did not comply with the conditions necessary to obtain a certificate, contended that his right to continue in the

practice of his profession was a property right of which he could not be deprived, consistently with due process, by a board of administrative officers; that he could only be deprived of the right after a judicial hearing (p. 120 of the report). But this court, although conceding that the right was a property right, overruled plaintiff's contention that the right could not be passed upon (even in the first instance) by an administrative officer, and sustained the statute as a police regulation. Mr. Justice Field, who delivered the opinion of the court, used this language applicable to the case at bar:

> Legislation must necessarily vary with the different objects upon which it is designed to operate. It is sufficient, for the purposes of this case, to say that legislation is not open to the charge of depriving one of his rights without due process of law, if it be general in its operation upon the subjects to which it relates, and is enforcible in the usual modes established in the administration of government with respect to kindred matters; *that is, by process or proceedings adapted to the nature of the case.*

Health Department v. *Rector* (145 N. Y., 32, 40). This case involved the constitutionality of a statute of New York which requires that the owners of all houses of a certain description, when directed by the board of health, shall provide such houses with Croton or other water in sufficient

quantity at one or more places on each floor occupied or intended to be occupied by one or more families. Pursuant to the statute an action was brought against the defendant in error by the health department for noncompliance with its order to provide water on each floor of a certain tenement house. One of the defenses was that the statute denied due process of law because it did not provide for any notice or hearing before the issuance of the orders of the health department. In overruling that defense the court of appeals, Peckham, J., delivering the opinion, said:

> As to the latter objection, it may be said that in enacting what shall be done by the citizen for the purpose of promoting the public health and safety it is not usually necessary to the validity of legislation upon that subject that he shall be heard before he is bound to comply with the direction of the legislature. (*People ex rel.* v. *Board of Health*, 140 N. Y., 1, 6.) The legislature has power and has exercised it in countless instances to enact general laws upon the subject of the public health or safety without providing that the parties who are to be affected by those laws shall first be heard before they shall take effect in any particular case. * * * I have never understood that it was necessary that any notice should be given under such circumstance before a provision of this nature could be carried out.

In *Shafer* v. *Mumma* (17 Md., 331), the court of appeals of Maryland stated very clearly the grounds

upon which the summary enforcement of police regulations is justified:

> But it is said, on behalf of the plaintiff, that since the adoption of the present State constitution, the mayor of Hagerstown could not try and fine under the ordinance, because the exercise of such power is but the exertion of the judicial power, which, by the constitution, is confided to certain specified classes of persons, and that the mayor of Hagerstown is not included in that enumeration.
>
> This argument would be entitled to great weight if we thought the power exercised by the defendant was, in the sense of the Constitution, a part of the judical power. But we entertain no such opinion. We regard it as but a part of the police power, as contradistinguished from the regular judiciary powers of the State. From time immemorial, a distinction has been observed between the two, both in England and this country. It would be next to, if not quite, impossible for a large city like Baltimore to preserve order within its limits, preserve the streets from interruption—indeed to do most of the thousand things necessary to be done to carry on its various and indispensable operations—*if in every case it were a necessary preliminary that the offender should be regularly prosecuted by presentment, indictment, and trial.* It has always been understood that, under the police power, persons disturbing the public peace, persons guilty

> of a nuisance, or obstructing the public highways, and the like offenses, may be summarily arrested and fined, without any infraction of that part of the Constitution which apportions the administration of judicial power strictly as such.

Although this case was decided with particular reference to the police system of municipalities, the reasoning employed applies to police regulations in general.

Fourth. If the argument up to this point has been successful, it has shown that the statutes whose constitutionality is in issue do not deny due process of law; and if it has shown that, then, a priori, it must have shown that the statutes do not clothe the Postmaster-General with judicial powers. However, since the latter point is an important one, it will now be considered separately, at the risk of some repetition.

It is often very convenient in the administration of the affairs of government—and sometimes it is indispensable—that executive officers have authority to deal with subjects in the first instance in a manner calling for the exercise of power somewhat in the nature of judicial power, and this is not open to the objection that it vests such officers with authority to decide judicial questions, because no judicial question is presented—no right of life, liberty, or property is drawn in question—until the contention is made that an executive officer in the exercise of power alleged to have

been granted to him has acted fraudulently or beyond his authority, and that question is always open to judicial determination.

The authority exercised by the Postmaster-General under sections 3929 and 4041 of the Revised Statutes, as amended, is of the sort just described, as is also that conferred on the Comptroller of the Currency by the national banking law. A still more striking instance is the power conferred upon local boards of health to take possession of, purify, and even destroy buildings or other property of the citizen, when the public health or comfort demands such strong measures. (Cooley Const. Lim. (6 ed.), p. 720, note 3.) And in the judicial, no less than in the executive, branch of government property is often summarily seized, in the first instance, by ministerial officers, subject to a subsequent judicial hearing of the right to hold it, if the right is contested. Such, for example, is the case in attachment and replevin proceedings.

In the case of *Murray's Lessee et al.* v. *Hoboken Land, etc., Co.* (18 How., 272, 280, 284), the distinction between judicial and executive powers and duties was carefully considered and learnedly discussed by Mr. Justice Curtis, speaking for this court. The question there was whether an act of Congress which authorized the auditing of accounts of collectors of customs, and the ascertainment of balances due, and the issuing of a warrant by the Solicitor of the Treasury authorizing

the sale of the property of the debtor, conferred judicial power on executive officers. In answering the question in the negative, the court, through Mr. Justice Curtis, differentiated between judicial duties strictly speaking and those duties which, though involving the investigation of facts and the application of rules of law, are nevertheless administrative or executive.

> That the auditing of the accounts of a receiver of public moneys may be, in an enlarged sense, a judicial act, must be admitted. So are all those administrative duties, the performance of which involves an inquiry into the existence of facts and the application to them of rules of law. In this sense the act of the President in calling out the militia under the act of 1795 (12 Wheat., 19), or of a commissioner who makes a certificate for the extradition of a criminal, under a treaty, is judicial. But it is not sufficient to bring such matters under the judicial power that they involve the exercise of judgment upon law and fact.

The power exercised by the Postmaster-General under sections 3929 and 4041 of the Revised Statutes, as amended, is clearly within this description. Under those sections, that officer does inquire into the existence of facts and apply to them rules of law, but he does not adjudicate upon any right, as already shown.

Further on in his opinion Mr. Justice Curtis stated this important rule as governing the delegation of judicial power:

> To avoid misconstruction upon so grave a subject, we think it proper to state that we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty; nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time there are matters involving *public* rights which *may* be presented in such form that the judicial power is capable of acting on them and which are susceptible of judicial determination, but which Congress *may* or *may not* bring within the cognizance of the courts of the United States, as it may deem proper.

The test question in the case now before the court must, therefore, be this: Has Congress attempted by sections 3929 and 4041 of the Revised Statutes, as amended, to "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty?" Certainly it has not, for, conceding that the right to use the mails in accordance with the laws is a property right, no dispute or contest concerning it—no "matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty"—arises until it is claimed that the Postmaster-General has violated the right; that is, has excluded matter which, under the law, is mailable, and Congress has not withdrawn the

hearing of that question from judicial cognizance; but, on the other hand, it has been expressly held by this court to be within judicial cognizance. (*American School of Magnetic Healing* v. *McAnnulty*, *supra*.)

Short reference will now be made to some of the remaining cases in which powers closely resembling, in general features, those vested in the Postmaster-General by the statutes in question have been held to be not judicial.

In *Bushnell* v. *Leland* (*supra*) it was held, reaffirming *Kennedy* v. *Gibson*, *Casey* v. *Galli*, and *United States* v. *Knox* (*supra*), that the power conferred by Congress upon the Comptroller of the Currency to appoint receivers for defaulting or insolvent national banks and to call for ratable assessments upon the stockholders thereof is not judicial power in the constitutional sense. The cases sustaining this power of the Comptroller have already been referred to and their application to the case at bar pointed out, *supra*, pages 33–36.

In *Hoff* v. *Jasper County* (110 U. S., 53, 56) it was contended that a statute requiring a State auditor to register municipal bonds and *to certify that all the conditions of law have been complied with in their issue* was void because it conferred judicial power upon an executive officer; but this court held the contrary, saying:

> As to the objection that the duties of the auditor, in respect to his inquiries under the fourth section, are judicial rather than exec-

> utive, it is sufficient to say that *every executive officer, when called on to act in his official capacity, must inquire and determine whether, on the facts, the law requires him to do one thing or another.*

In *Hempstead, Land Agent*, v. *Audenhill's Heirs* (20 Ark., 337, 357) the supreme court of Arkansas, reversing the trial court, held that an act of the legislature conferring upon swamp-land agents the power to determine the validity of conflicting claims to swamp lands, and to pass upon the validity of title, upon application for patent certificates upon the surrender of the original certificates of purchase, was not unconstitutional, the power conferred being a ministerial and not a judicial power. The court said:

> The court below seems to have been under the impression that this provision of the act was an attempt to confer judicial power upon the land agents, and was, therefore, void. If the premises were correct the conclusion would follow as a consequence, for the land agents, being executive officers, could not be clothed with judicial power under the Constitution. But such, perhaps, was not the intention of the legislature, and such can not be the effect of the provision of the act in question. On the contrary, it merely confers upon the land agent ministerial power *to inquire into the facts in relation to conflicting entries, and to give the patent certificate to the party appearing to be entitled to it by law. But his decision is not conclusive upon the rights of the parties.*

Neither is the decision of the Postmaster-General to refuse to permit the delivery of mail addressed to a person because he is engaged in a lottery conclusive.

In *State of Louisiana ex rel. Martin* v. *Police Jury of Caddo Parish* (32 La. Ann., 1022, 1026) the supreme court of Louisiana held that an act of the State legislature establishing a board *to sift and adjust the outstanding indebtedness of the parish of Caddo* did not confer judicial power upon that board. Said the court:

> The objection to the constitutionality of the law constituting the board of audit is bottomless. It is not true that the legislature intended to create a body clothed with judicial powers, so as to make it a component part of the judicial department as organized by the constitution. It had the power to create such a body, as it did, for the purpose of sifting and adjusting the outstanding indebtedness of the parish of Caddo, whose finding, however, on any portion of that indebtedness was *not to be final* and irrevocable. * * *

In *Ex parte Wells* (21 Fla., 280) it was held that an act of the Florida legislature providing for the dissolution of defaulting cities does not confer judicial power on the governor of the State by making it his duty *to ascertain and declare* by proclamation *to what cities the act applies*. The analogy between this case and the case at bar is very close; in each it is contended that the power given to an

executive officer to ascertain in the first instance to what subjects a legislative act applies is a judicial power.

In *Gough* v. *Dorsey* (27 Wis., 119) the supreme court of Wisconsin sustained an act of the State legislature under which the school land commissioners exercised the power (subject to review by the courts) of holding a sale of school lands, "made by mistake, or not in accordance with law, or obtained by fraud," to be void and requiring the purchaser to surrender his certificate. The court said:

> The exercise of a summary jurisdiction of the kind by the commissioners may be often very useful, and, subject to review and correction in the courts, the objection to it does not seem insuperable. The process of judicial investigation, while it has the advantage of greater care and deliberation, and consequently of greater certainty in attaining correct results, has also the disadvantage of many times being very slow. In the very numerous transactions of the school land office, cases may not be infrequent where delay would be most injurious. The cases may be plain ones and prompt determination required. They may be such that no judicial examination will be advised or sought, but the decision of the commissioners accepted as correct. In such cases the benefits of the summary mode of proceeding are manifest, and the evils disappear when it is known that the judicial remedy is open to any

> person feeling himself aggrieved by the action of the commissioners. And the giving of such power is in harmony with what has been the practice of our Government, both State and National, in this respect. The officers intrusted with the sale and disposition of the public lands have always been invested with certain limited judicial powers of the kind, closely connected with the duties they are required to perform, and which seem necessary to a proper performance of them. They have been authorized to vacate entries of land under similar circumstances, and to issue certificates to other applicants. They have been empowered to hear and decide questions of contested rights of preemption or entry, which are quite judicial in their nature and often present points of much difficulty and importance. In some instances an appeal has been given directly from their decision to the courts * * *. And in all cases it has been held, we believe, where no appeal is directly given, that the proceedings of such officers, so far as they act judicially, are subject to review and correction in any proper action instituted between the parties in interest.

The case of *United States* v. *Rider* (50 Fed. Rep., 406) is one we expect to see cited on behalf of complainant. One question there was whether Congress could confer upon the Secretary of War (as it had attempted to do) the power, after notice and hearing, to order persons owning or control-

ling bridges to make such alterations in them as he, the Secretary, might direct, whenever he had good reason to believe that they were unreasonably obstructing navigation. Refusal or failure to comply with the Secretary's orders was made a misdemeanor. The district court held that the power of the Secretary in a particular case depended upon his having adjudged that the bridge was an obstruction to navigation; that such adjudication, being *final and conclusive* under the statute, was an exercise of judicial power, and that for that reason, among others, the statute was unconstitutional. The language of the court clearly indicates, however, that it would not have held the statute to be unconstitutional on this ground if the determination of the Secretary of War, under the law, had not been *final and conclusive*. Thus the court said in one place:

> The power of the Secretary depends upon his having adjudged that the bridge is an obstruction, *and his adjudication is made final and conclusive.*

And again, after noting that an early law of Congress authorized the Secretary of State, upon the surrender of a patent, invalid or inopertive by reason of inadvertence, accident, or mistake, to cause to be issued a new patent for the same invention and for the residue of the term of the original patent, the reissued patent to be liable to the same defenses as the original, the court proceeded to distinguish that statute from the one before it.

> But there is this radical difference between the case of a reissued patent and the case now before the court: The patent, original or reissue, is only *prima facie evidence* of an exclusive right in the patentee, and it is open to all defenses, including, in the case of a reissued patent, those involving an investigation into the question whether there was, in fact, any such inadvertence, accident, or mistake as was requisite to authorize the reissue, while here the Secretary of War finds and decides *conclusively and finally* whether the bridge is an obstruction, what changes shall be made, and within what time; and the only questions left open to be tried in the criminal prosecution for misdemeanor which he is authorized to set on foot are whether he has made the findings and decision, ordered the changes, given the proper notices, and whether the defendants have complied with his orders.

It is thus plain that the decision of the court on this point would have been otherwise if the findings of the Secretary of War had not been made *final and conclusive*, and since the rulings of the Postmaster-General under sections 3929 and 4041 of the Revised Statutes, as amended, *are not final and conclusive*, but may be reviewed by the courts for the purpose of determining whether he acted fraudulently or beyond his authority, Rider's case is an authority in favor of their constitutionality.

Fifth. It is said, however, that even if Congress may authorize the Postmaster-General to

detain any mail matter *concerning lotteries or fraudulent schemes* addressed to persons engaged in those unlawful enterprises it does not follow that Congress may authorize the Postmaster-General to detain *all* mail matter addressed to such persons.

The answer to that contention is plain. It has already been pointed out that the statutes alleged to be unconstitutional are police regulations, or at least they are of the nature of police regulations, and when the validity of such regulations is attacked there are but two things to be considered: First, whether the subject is a proper one for police regulation; and, second, whether "the means are reasonably necessary for the accomplishment of the purpose." (*Lawton* v. *Steele*, 152 U. S., 132, 135.) That the closing of the mails to lotteries, in order to prevent their demoralizing influence from spreading, is within the police power or an equivalent power—if anyone objects to calling it police power when exercised by the Federal Government—is settled law. (*In re Rapier*, 143 U. S., 134.) The only question, therefore, is, Are the statutes in question *reasonably adapted* to accomplish the public end in view? Was it *reasonable* for Congress to enact, in its effort to bar from the mails matter concerning lotteries and fraudulent schemes in general, that *all* mail addressed to a person promoting a lottery or fraudulent scheme should be refused delivery? The reason why Congress extended the prohibition

to all mail matter and did not confine it to the objectionable matter is clear. How could it be determined what sealed matter is objectionable and what is not? Not by anything on the outside of the letter or package, because the persons affected are shrewd enough to have matter relating to their obnoxious enterprises addressed just as their strictly private mail is addressed. The only way to determine the question would be to provide for the *opening and inspection of all mail* addressed to persons within the operation of the statutes, and if the provision of sections 3929 and 4041 of the Revised Statutes, as amended, is open to objection, how much greater would be the objection to a provision of this sort. It is thus apparent that if Congress had only authorized the Postmaster-General to detain the objectionable matter its purpose would have been defeated, because the difficulties in the way of separating the objectionable from the unobjectionable would have proved insurmountable. And unless the Postmaster-General could constitutionally be given the power to withhold from delivery *all* mail matter—not merely that which is obnoxious—addressed to persons engaged in lotteries and fraudulent schemes, his power in the premises, so far as its practical value is concerned, might as well be denied altogether. And it would come to this, that a great public facility, operated by a department of the executive service of the Gov-

ernment, could be used, without fear of interference from the head of that department, to further frauds and lotteries—the one *mala in se*, the other denounced by the law of nearly every civilized country. Is this court ready to acknowledge such a degree of impotence in the Federal Government?

And considering the end to be accomplished, the insidious and far-reaching effects of the evil to be suppressed, and the difficulties which in the nature of things beset the regulation of the subject, is the court prepared to overrule the judgment of Congress that the means which it provided are "reasonably necessary" to accomplish the public end desired, and to affirm that they have no "real or substantial relation" to that end? *Lawton* v. *Steele*, *supra; Mugler* v. *Kansas*, 123 U. S., 623, 631; *Powell* v. *Pennsylvania*, 127 U. S., 678, 684.) Said Mr. Justice Brown, in delivering the opinion of the court in *Lawton* v. *Steele* (*supra*), referring to the police power:

> While the legislature has no power to arbitrarily declare that to be a nuisance which is clearly not so, a good deal must be left to its discretion in that regard, *and if the object to be accomplished is conducive to the public interests it may exercise a large liberty of choice in the means employed.*

And the following words of Chief Justice Waite in the *Sinking Fund Cases* (99 U. S., 700, 718), always appropriate when the constitutionality of a

law is questioned, may well be borne in mind in determining these issues:

> Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the Government can not encroach on the domain of another without danger.

There is yet another principle which may be invoked to refute the contention that sections 3929 and 4041, Revised Statutes, as amended, are unconstitutional because they extend to innocent as well as objectionable mail matter. It is this: laws in the nature of police regulations, such as the acts in question, are valid and can not be challenged by the courts, notwithstanding their enforcement may cause inconvenience, or even oppression, to some who have done nothing contrary to the policy of the laws.

Thus, in *Boston Beer Co.* v. *Massachusetts* (97 U. S., 25), this court said:

> If the public safety or the public morals require the discontinuance of any manufacture or traffic the hand of the legislature can not be stayed from providing for its discontinuance by any incidental *inconvenience* which individuals or corporations may suffer.

To the same effect is the case of *Barbier* v. *Connolly* (113 U. S., 27):

> The *inconvenience* arising in the administration of police laws are matters entirely for the consideration of the State; they are to be remedied only by the State.

The decision of this court in the case of *Powell* v. *Pennsylvania* (127 U. S., 678, 685) is a complete answer to the contention we are discussing. That case raised the question of the validity of a statute of the State of Pennsylvania which prohibits the manufacture or sale of any form of oleomargarine, whether it contained any unwholesome ingredient or not, just as the statutes in the case in hand authorize the Postmaster-General to cause the detention of *all* mail matter, whether of an innocent or objectionable character, addressed to persons engaged in the obnoxious enterprises named. It was argued for the plaintiff that while the State might prohibit the manufacture of oleomargarine which contained harmful ingredients, it could not prohibit its manufacture altogether, for that would extend the prohibition to an article which was free from injurious properties—the same argument, mutatis mutandis, that is made in the case at bar. To this the State answered that the manufacture of oleomargarine was conducted with such skill and secrecy that it baffled ordinary inspection to distinguish that which is injurious from that which is not, and that therefore in order to reach the former, its prohibition must include the latter. The

issue thus raised, which was decided in favor of the State, is identical with that in the case at bar. In the one case the statute forbade the manufacture of *all* oleomargarine because it is impossible to separate the good from the bad; in the other the statute forbade the delivery of *all* mail matter because it is impossible to separate the innocent from the objectionable. Mr. Justice Harlan, who delivered the opinion of the court, said:

> Whether the manufacture of oleomargarine, or imitation butter, of the kind described in the statute is, or may be, conducted in such a way, or with such skill and secrecy, as to baffle ordinary inspection, or whether it involves such danger to the public health as to require, for the protection of the people, *the entire suppression of the business rather than its regulation in such manner as to permit the manufacture and sale of articles of that class that do not contain noxious ingredients* are questions of fact and of public policy which belong to the legislative department to determine. * * * If all that can be said of this legislation is that it is unwise, or *unnecessarily oppressive to those manufacturing or selling wholesome oleomargarine* as an article of food, their appeal must be to the legislature, or to the ballot box, not to the judiciary. The latter can not interfere without usurping powers committed to another department of goverment.

Sixth. If it has been established to the satisfaction of the court that the statutes in question

provide for due process of law, then, of course, it must also have been established that they do not subject complainant's papers and property to unlawful or unreasonable searches and seizures.

Giving the terms their very widest meaning, it can not be said that the statutes authorize *any* "seizure" of property or "search" of papers whatever, much less *unlawful* seizure or search. The most that the Postmaster-General can do under those statutes, and all that he has attempted to do, is to refuse to permit the use of the postal service for the transmission of matter addressed to persons engaged in promoting frauds and lotteries. If, in spite of the "fraud" order of the Postmaster-General, objectionable matter is deposited in the mails, it is returned to the sender when his address is known; when his address is not known it is forwarded to the dead-letter office to be disposed of as other dead matter. No property is "seized," none is "searched." If the sender is known the Government returns the matter to him at its own expense; if he is unknown he may obtain the matter by applying for and indentifying it, and so far from holding it, the Post-Office Department is always glad to get rid of it.

Without going further into the consideration of a contention that has already been answered in discussing due process, and which was flimsy to start with, it is sufficient, to show how groundless it is—so far as the claim of unreasonable search is concerned—to call attention to the provision of

the statutes, that nothing therein contained "shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself." And in respect to the alleged seizure, it is enough to say that, if to refuse to deliver mail matter addressed to persons engaged in lotteries and frauds is unlawfully *to seize* such matter, then Congress is "compelled arbitrarily to assist in the dissemination of matters condemned by its judgment, through the governmental agencies which it controls" (per Chief Justice Fuller, *In re Rapier*, 143 U. S., 134), a somewhat strange application of a principle designed for the well-being of society.

Having now shown, as we believe, that the statutes drawn in question do not violate the Constitution of the United States in any of the respects complained of, it is respectfully submitted that the decree of the circuit court should be affirmed.

W. A. Day,
Assistant to the Attorney-General.

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Supreme Court of the United States.

No. 224.—October Term, 1903.

The Public Clearing House, Appellant, vs. Frederick E. Coyne, Postmaster, &c. } Appeal from the Circuit Court of the United States for the Northern District of Illinois.

[May 31, 1904.]

This was a bill in equity by the Public Clearing House against the Postmaster of the city of Chicago, praying for an injunction to restrain him from seizing and detaining appellant's mail, stamping it "fraudulent," and returning it to the senders thereof, and from denying to appellant the use of the money order and registered letter system of the Post Office Department.

An answer and replication were filed and the cause referred to a master in chancery to take the testimony and report the same with his conclusions thereon.

The following contains the substance of the master's report:

"1. The complainant is a corporation organized under the laws of the State of Illinois, for the purpose, as stated by its charter, of doing a general brokerage and commission business, collecting and disbursing money and conducting an exchange or information bureau for the benefit of patrons. The evidence shows that the said complainant had made a beginning of several different kinds of business and its managers had opened negotiations with different laundry proprietors, preparing to place laundries on a co-operative basis; also to handle fruits and poultry in the same manner, and also to purchase and sell goods on behalf of its patrons on commission, and to exchange goods in specie in the same manner for a commission, and had actually transacted some small amount of such business, but the principal business and object for which the said complainant was organized appears to have been to act as the fiscal agent of a certain voluntary association called the League of Equity. This League of Equity consists of a large number of people, approximately five thousand at present, of various occupations and scattered throughout the United States and Canada, each of whom, in his application for membership, consents that the Public Clearing House shall act as fiscal agent for said League of Equity. The said League of Equity was in a way successor to a prior organization called the League of Educators, and this in turn succeeded to a still prior organization called the League of Eligibles, and a certain organization or partnership called the board of managers of the League of Educators and the board of managers of the League of Eligibles were respectively fiscal agents for the two organizations.

"The League of Eligibles was established in the year 1898, and was a voluntary association of unmarried people. Their certificates became matured or realized upon the contingency of marriage, provided that such marriage did not occur within one year from the time when they joined

the league. The certificate had a fixed realization value of five hundred dollars, and was paid out of the monthly *pro rata* assessment levied upon all members of the league for the benefit of those members whose certificates were matured or realized.

"The plan of the League of Educators was the same, except that it substituted a fixed time for the realization of the certificates, and eliminated the marriage contingency feature.

"2. The plan of the League of Equity differed from that of the League of Educators only in having a fixed monthly payment of one dollar, instead of a fluctuating or variable assessment. When the first change was made there were about thirteen hundred members of the League of Eligibles, all of whom were given an opportunity to become members of the League of Educators without additional cost and without losing the benefit of their previous term of co-operation, and many of them availed themselves of this opportunity and became members of the League of Educators. Again, when the League of Equity was formed, the League of Educators consisted of some nine thousand members, who were allowed the same privilege of joining the League of Equity, and up to the time when the fraud order was issued against the latter concern between four and five thousand members of the League of Educators had joined the League of Equity.

"3. The evidence showed that up to about the first of November, 1902, during the period of the existence of the League of Eligibles and League of Educators, there had been collected from about 13,784 members a total of $137,390.66, out of which the board of managers had taken about $36,000 for their expenses and compensation for themselves and agents in the field. The remainder had been distributed among some 600 or 700 members, and at that time the board of managers had no money in their hands.

"In other words, 600 or 700 members had received an average of something less than $170 each, and over ten thousand members had received nothing.

"4. The board of managers of the League of Educators had during its business as fiscal agent for said league accumulated a large number of address cards of different persons throughout the country, which had been secured through the members or co-operators, and these address cards were at or about the time of the organization of the Public Clearing House sold to said Public Clearing House by the said board of managers, for the sum of $2,500.

"5. The complainant, The Public Clearing House, as such fiscal agent of the League of Equity, invites people to join the said league, and holds out inducements in the shape of a large return for small amounts of money and for services to be rendered by members or co-operators in inducing others to become members or co-operators. There is no contract or agreement issued or entered into with members by the League of Equity itself as a body or association, but a certain so-called co-operator's agreement, a copy of which is attached to the bill herein, is issued to each member or co-operator, and is signed by said Public Clearing House by its president and secretary as fiscal agents for the League of Equity.

"In order to carry on successfully the business of the complainant it is necessary that it have the use of the United States mails; but it has not had the use of the mails since November 13, 1902, by reason of a 'fraud

order' issued against it, dated November 10, 1902, by the Postmaster General, and as a result the business has practically been stopped.

"6. The plan or scheme of the League of Equity as set forth in the co-operator's agreement and in other literature issued by said complainant may be briefly stated as follows: Each person who becomes a member or co-operator pays three dollars as enrollment fee, and agrees to pay the sum of one dollar per month for sixty months or five years, and also agrees to 'co-operate' by inducing other persons to become members or co-operators. The agreement states that in consideration of said enrollment fee 'and the faithful compliance with the terms of this agreement hereinafter contained, the above-named person shall receive his *pro rata* share of the total amount realized (less ten per cent) when entitled to a realization as hereinafter provided, said realization to be in accordance with the following ordinary causation and realization table.' Then follows a table showing that if the league grows at the rate of fifteen to one the total realization of the member at the end of five years will be at the same rate of increase, that is, he will receive nine hundred dollars for his sixty dollars paid in; if the growth is at the rate of ten to one he will receive six hundred dollars at the end of five years, and so forth and so on down to a growth of only one to one, in which case he will receive only his money back, less the ten per cent which is in each case deducted as the compensation of the complainant for its services and existence as fiscal agent, and less also the three dollars enrollment fee. Aside from this ten per cent and the three dollars enrollment fee, the plan does not contemplate that complainant shall retain any of the money paid in by co-operators, or that any reserve fund shall be accumulated or invested, but that the money paid in each month shall be regularly paid out each month (less ten per cent) to the so-called realizing co-operators, *i. e.*, those whose five years' period has expired and who have continued to make the requisite monthly payments during said five years. There is an additional provision that each co-operator who shall have secured three new members in any one year may realize or receive at the end of each year one-fifth of the amount which he would be entitled to receive at the end of five years, assuming that the growth for the five years continued at the same rate; but the plan contemplates that in the end the member who secures new members and the one who does not shall receive the same amount.

"5. All members who join the League of Equity during the same month constitute a class by themselves and are entitled to realize in all respects precisely the same amount and at the same time, excepting the member who obtains new co-operators may receive his realization in yearly installments, instead of in one lump at the end of the five years' period.

"The only source of income to the league and the only funds to which its members can look for payment of the promised amount, or any amount whatever, is the fund created each month by the payment of monthly dues, and the realization of any amount whatever by the new members is conditioned absolutely upon the constant acquisition of other new members and the new payments to be made by such new members. And what amount the members or co-operators will realize, as is stated by the league literature, depends entirely upon the ratio of growth of the league. No reserve fund is accumulated and no investments whatever are made of any portion of the money paid in by members."

Upon this state of facts the master came to the conclusion that the scheme of the complainant was, in effect, a lottery, and as such was not entitled to the use of the mails, and also reported to the court that the fraud order which had been issued by the Postmaster General in October, 1902, was fully justified and that the injunction should be denied. His action was affirmed by the Circuit Court, and the bill dismissed for the want of equity.

Mr. Justice BROWN delivered the opinion of the Court.

By section 3929 of the Revised Statutes, as amended by the act of September 19, 1890, (26 Stat. 465,) "The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, instruct postmasters at any post office at which *registered* letters arrive directed to any such person or company . . . to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word 'fraudulent' plainly written or stamped upon the outside thereof."

By section 4041, the Postmaster General is authorized in similar terms to forbid the payment by any postmaster of any postal money order drawn in favor of any person engaged in the prohibited business; and by section 4 of the act of March 2, 1895, (28 Stat. 964,) the power thus conferred upon the Postmaster General by the preceding section, 3929, is extended and made applicable to *all* letters or other matter sent by mail.

These acts apply to two classes of cases: First, to schemes for the distribution of money, &c., by lot, chance or drawing of any kind; second, to all schemes or devices for obtaining money or property of any kind by means of false or fraudulent pretenses, representations or promises.

It seems the Postmaster General, in issuing the fraud order in this case, acted upon the theory that the complainant was engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, &c., and not in conducting a lottery; but if the order detaining the letters was properly issued, in view of all the evidence introduced in the court below, we do not think it was vitiated by the fact that the Postmaster General acted upon the hypothesis that the business in which complainant was engaged was a fraudulent scheme instead of a lottery, since both are within the purview of these statutes.

We find no difficulty in sustaining the constitutionality of these sections. The postal service is by no means an indispensable adjunct to a civil

government, and for hundreds, if not for thousands, of years the transmission of private letters was either entrusted to the hands of friends or to private enterprise. Indeed, it is only within the last three hundred years that governments have undertaken the work of transmitting intelligence as a branch of their general administration. While it has been known in this country since colonial times and was recognized in the Constitution and in some of the earliest acts of Congress, the rates of postage were so high and the methods of transmission so slow and uncertain that it was not until 1845, when the postage was reduced to five and ten cents, according to the distance, and a stamp or stamps introduced, that it assumed anything of the importance it now possesses.

It is not, however, a necessary part of the civil government in the same sense in which the protection of life, liberty and property, the defence of the government against insurrection and foreign invasion, and the administration of public justice are; but is a public function assumed and established by Congress for the general welfare, and in most countries its expenses are paid solely by the persons making use of its facilities; and it returns, or is presumed to return, a revenue to the government, and really operates as a popular and efficient method of taxation. Indeed, this seems to have been originally the purpose of Congress. The legislative body in thus establishing a postal service may annex such conditions to it as it chooses.

The constitutional principles underlying the administration of the Post Office Department were discussed in the opinion of the court in *Ex parte Jackson*, (96 U. S. 727,) in which we held that the power vested in Congress to establish post offices and post roads embraced the regulation of the entire postal system of the country; that Congress might designate what might be carried in the mails and what excluded, and that in the enforcement of such regulations a distinction was made between letters and sealed packages subject to letter postage, and such other packages as were open to inspection, such as newspapers, magazines, pamphlets and other printed matter, and that the constitutional guarantee against unreasonable searches and seizures extended to letters but did not extend to printed matter. In establishing such system Congress may restrict its use to letters, and deny it to periodicals; it may include periodicals, and exclude books; it may admit books to the mails and refuse to admit merchandise, or it may include all of these and fail to embrace within its regulations telegrams or large parcels of merchandise, although in most civilized countries of Europe these are also made a part of the postal service. It may also refuse to include in its mails such printed matter or merchandise as may seem objectionable to it upon the ground of public policy, as dangerous to its employes or injurious to other mail matter carried in the same packages. The postal regulations of this country, issued in pursuance of act of Congress, contain a long list of prohibited articles dangerous in their nature, or to other articles with which they may come

in contact, such, for instance, as liquids, poisons, explosives and inflammable articles, fatty substances, or live or dead animals, and substances which exhale a bad odor. It has never been supposed that the exclusion of these articles denied to their owners any of their constitutional rights. While it may be assumed, for the purpose of this case, that Congress would have no right to extend to one the benefits of its postal service, and deny it to another person in the same class and standing in the same *relation to the* Government, it does not follow that under its power to classify mailable matter, applying different rates of postage to different articles, and prohibiting some altogether, it may not also classify the recipients of such matter, and forbid the delivery of letters to such persons or corporations as in its judgment are making use of the mails for the purpose of fraud or deception or the dissemination among its citizens of information of a character calculated to debauch the public morality. For more than thirty years not only has the transmission of obscene matter been prohibited, but it has been made a crime, punishable by fine or imprisonment, for a person to deposit such matter in the mails. The constitutionality of this law we believe has never been attacked. The same provision was by the same act extended to letters and circulars connected with lotteries and gift enterprises, the constitutionality of which was upheld by this court in *In re Rapier*, (143 U. S. 110.)

It is contended, however, that the laws in question are unconstitutional in that they authorize the Postmaster General to seize and return to sender all letters addressed to a particular person, firm or corporation which he is satisfied is making use of the mail for an illegal purpose. Their constitutionality is attacked upon three grounds: First, because they provide no judicial hearing upon the question of illegality; second, because they authorize the seizure of all letters without discriminating between those which may contain and those which may not contain prohibited matter; and, third, because they empower the Postmaster General to confiscate the money, or the representative of money, of the addressee, which has become his property by the depositing of the letter in the mails.

1. It is too late to argue that due process of law is denied whenever the disposition of property is affected by the order of an executive department. Many, if not most, of the matters presented to these departments require for their proper solution the judgment or discretion of the head of the department, and in many cases, notably those connected with the disposition of the public lands, the action of the department is accepted as final by the courts, and even when involving questions of law this action is attended by a strong presumption of its correctness. (*Bates & Guild Co.* v. *Payne*, 194 U. S. 106.) That due process of law does not necessarily require the interference of the judicial power is laid down in many cases and by many eminent writers upon the subject of constitutional limitations. (*Murray's*

Lessee v. *Hoboken Co.*, 18 How. 272, 280; *Bushnell* v. *Leland*, 164 U. S. 684.) As was said by Judge Cooley, in *Weimer* v. *Danbury*, (30 Mich. 201): "There is nothing in these words, ('due process of law,') however, that necessarily implies that due process of law must be judicial process. Much of the process by means of which the government is carried on and the order of society maintained is purely executive or administrative. Temporary deprivation of liberty or property must often take place through the action of ministerial or executive officers or functionaries, or even of private parties, where it has never been supposed that the common law would not afford redress." If the ordinary daily transactions of the departments, which involve an interference with private rights, were required to be submitted to the courts before action was finally taken, the result would entail practically a suspension of some of the most important functions of the government. Even in the recent case of the *School of Magnetic Healing* v. *McAnnulty*, (187 U. S. 94,) the constitutionality of the law authorizing seizures of this kind by the Postmaster General was assumed, if not actually decided, the only reservation being that the person injured may apply to the courts for redress in case the Postmaster General has exceeded his authority or his action is palpably wrong. So, too, in the recent case of *Bates & Guild Co.* v. *Payne*, (194 U. S. 106,) the law was also assumed to be constitutional, the only doubtful question being whether this court should accept the findings of the Postmaster General as to the classification of the mail matter as final under the circumstances of the case. Inasmuch as the action of the postmaster in seizing letters and returning them to the writers is subject to revision by the judicial department of the Government in cases where the postmaster has exceeded his authority under the statute, (*School of Magnetic Healing* v. *McAnnulty*, 187 U. S. 94,) we think it within the power of Congress to entrust him with the power of seizing and detaining letters upon evidence satisfactory to himself, and that his action will not be reviewed by the court in doubtful cases.

2. Nor do we think the law unconstitutional, because the Postmaster General may seize and detain all letters, which may include letters of a purely personal or domestic character, and having no connection whatever with the prohibited enterprise. In view of the fact that by these sections the postmaster is denied permission to open any letters not addressed to himself, there would seem to be no possible method of enforcing the law except by authorizing him to seize and detain all such letters. It is true it may occasionally happen that he would detain a letter having no relation to the prohibited business; but where a person is engaged in an enterprise of this kind, receiving dozens and perhaps hundreds of letters every day containing remittances or correspondence connected with the prohibited

business, it is not too much to assume that, *prima facie* at least, all such letters are identified with such business. A ruling that only such letters as were obviously connected with the enterprise could be detained would amount to practically an annullment of the law, as it would be quite impossible, without opening and inspecting such letters, which is forbidden, to obtain evidence of the real facts. (*Powell* v. *Pennsylvania*, 127 U. S. 678, 685; *Lawton* v. *Steele*, 152 U. S. 132.) Whether, in case a private registered letter was thus seized and detained, and damage was thereby occasioned to the addressee, an action would lie against the Postmaster General, is not involved in this case. It certainly is not made the basis of the present suit.

Another answer to this argument, which seems to be conclusive, is that the fraud order in this case is not open to this objection, as the Postmaster General only forbids the postmaster at Chicago to pay any postal money orders, drawn to the order of the League of Equity and the Public Clearing House, or their officers or agents in their capacity as such, and to inform the remitter of any such postal money order that payment thereof has been forbidden, &c., and "to return all letters, whether registered or not, or other mail matter which shall arrive at your office directed to such concerns or their officers or agents as such, to postmasters at the office at which they were originally mailed." There is nothing in the order thus worded that would authorize the postmaster at Chicago to return letters addressed to an individual unless addressed to such individual as officer or agent of the League of Equity or the complainants. There is nothing in this order that would authorize the interference with the private or domestic mail matter of individuals.

3. The objection that the Postmaster General is authorized by statute to confiscate the money, or the representative of money, of the addressee, is based upon the hypothesis that the money or other article of value contained in a registered letter becomes the property of the addressee as soon as the letter is deposited in the post office. The action of the Postmaster General in seizing the letter does not operate as a confiscation of the money, or the determination of the title thereto; but merely as a refusal to extend the facilities of the Post Office Department to the final delivery of the letter. Congress might undoubtedly have authorized the postmaster at the depositing office to decline to receive the letter at all if its forbidden character were known to him; but as this would be impossible, we think the power to refuse the facilities of the department to the transmission of such letter attends it at every step from its first deposit in the mail to its final delivery to the addressee, and as the character of the letter cannot be ascertained until it arrives at the office of delivery, the Government may then act and refuse to consummate the transaction. If the letter and

its contents become the property of the addressee when deposited in the mail, the subsequent seizure by the Government would not impair his title or prevent an action by him for the amount of the remittance. True, this might be of no practical value to him, but it is a sufficient reply to show that the title to the letter did not change by its seizure by the postmaster.

4. The main question involved in this case, however, is whether the scheme of the complainant was within the language of sections 3929 and 4041. The Postmaster General, in his fraud order, a copy of which is found in the bill, assumed that the League of Equity and the Public Clearing House were engaged in conducting a scheme for obtaining money by means of false and fraudulent representations or promises, but as the master found in his report that the Clearing House and its officers had dealt fairly and honestly in respect to the collection and distribution of funds collected by them, and had not been guilty of false or fraudulent representations in order to induce persons to become members of the League, this theory was abandoned by the Government, and the case put upon the ground that these corporations were engaged in conducting a "lottery or scheme for the distribution of money . . . . by lot, chance, or drawing." That they were not engaged in conducting a lottery in the sense in which that word is ordinarily used is entirely clear, since this involves fixed prizes and the allotment of the prizes to the holder of numbered tickets which are drawn from a box. In such case the word lot or chance attaches only to the name or number of the ticket drawn, and not to the amount of the prize, but the statute covers any scheme for the distribution of money by lot or chance, as well as by drawing, and by the word chance, as defined by Webster, is meant "something that befalls, as the result of unknown or unconsidered forces; the issue of uncertain conditions; an event not calculated upon; an unexpected occurrence; a happening; accident, fortuity, casualty." As stated by the master, the plan contemplates that each person who becomes a member or co-operator pays three dollars as enrollment fee, and agrees to pay the sum of one dollar per month for sixty months or five years; and also agrees to co-operate by inducing other members or persons to become co-operators, shall receive his *pro rata* share of the total amount realized when entitled to a "realization" as provided at the end of five years; or in case he shall have secured three new members in any one year, he may realize or receive at the end of each year one-fifth of the amount which he would be entitled to receive at the end of five years, assuming that the growth of the five years continued at the same rate. The plan also contemplates that in the end the member who secures new members, and the one who does not, shall receive the same amount. All members joining the league during

the same month constitute a class by themselves and are entitled to realize in all respects precisely the same amount and at the same time, excepting the member who obtains new co-operators may receive his realization in yearly installments instead of in one lump at the end of the five years' period.

We do not consider it necessary to enter into the details of the plan, which is a somewhat complicated one, and the success of which obviously depended upon constantly and rapidly increasing the number of subscribers or co-operators. The only money paid in was a small enrollment fee of three dollars and a monthly payment of one dollar for five years. The return to the subscribing member, which is called a realization, is not only uncertain in its amount, but depends largely upon the number of new members each subscriber is able to secure, as well as the number of members which his co-operators are able to secure. The return to members who have been able to secure a large number of other members, and to pay their own monthly dues, may be very large in comparison with the amount paid in, but the amount of such return depends so largely, and indeed almost wholly, upon conditions which the member is unable to control, that we think it fulfills all the conditions of a distribution of money by chance. In becoming a co-operator each new member evidently contemplates that a large number, probably a large majority, of those subscribing will drop out before the end of five years. That some will and some will not induce others to become members, and that the amount ultimately realized depends not only upon his own prompt payment of dues and his own exertions, but upon a corresponding action by other co-operators. One thing, however, is entirely clear, and that is, the success of the scheme depends wholly upon the ability of the members to increase the number of subscribers, and, as there is no reserve fund provided for their indemnification, there is sure to be a loss to every one interested in the enterprise as soon as the number of new members ceases to increase.

Counsel for complainant liken the scheme to that of an ordinary life insurance company, which at an early date was thought by some to involve the elements of chance, but was finally held to be a legitimate business. In such policies there is the payment of a fixed sum which matures either at the death of the assured or upon the happening of some other contingency expressly provided for in the policy. There is no uncertainty as to the amount to be paid, as in this case, nor does it depend upon the conduct of other persons insured in the same company, but simply upon payment of premiums by insured. The only contingency is the time as to when the policy is to mature, and the profits are calculated upon the theory that the premiums paid, with the interest thereon, will in the end amount to more than the sum becoming due upon the happening of the contingency.

There is also a reserve fund provided for the security of policy holders in case no new applications are made for insurance or the business of the company is abandoned. As the only fund provided in this scheme are small monthly payments which are constantly being divided in the shape of monthly realizations, there is no possibility of a reserve fund for the security of the co-operators. The uncertainty of the amount realized upon these settlements is evident from the fact that while a member may possibly realize as high as fifteen dollars for every dollar invested by him, he may realize no profit at all, or, in case the business is suspended, may realize nothing.

In the careful and satisfactory report of the master the plan of the complainant is briefly described "as a plan for securing money from a constantly increasing large number for the benefit of a constantly increasing smaller number, with an absolute certainty that when the enterprise reaches an end for any reason the large number will lose every dollar they have put into it, and in the meantime the smaller number will have realized such amounts as may have resulted from the growth of the larger number; but no one can predict what that growth will be."

It is true, as urged by the counsel for complainant, that in investing money in any enterprise the investor takes the chance of small profits, or even of failure, as well as the hope of large profits; but such enterprises contemplate the personal exertions of the investor, or of his partners, agents or employes, while in the present case his profits depend principally upon the exertions of others, over whom he has no control and with whom he has no connection. It is in this sense the amount realized is determinable by chance.

The scheme lacks the elements of a legitimate business enterprise, and we think there was no error in holding it to be a lottery within the meaning of the statute. Indeed, we think that no scheme of investment which must ultimately and inevitably result in failure can be called a legitimate business enterprise. The cases upon the subject of the definition of a lottery are carefully collated and criticized by Mr. Justice Blatchford in *Horner* v. *United States*, (147 U. S. 449, 458,) and are held to extend to all schemes for the distribution of prizes by chance, such as policy playing, gift exhibitions, prize concerts, raffles at fairs, &c., and various forms of gambling.

That the party injured has a right to invoke the judicial power of the Government whenever his property rights have been invaded by the exercise of such power, was settled by this court in *Noble* v. *Union River Logging Railroad*, (147 U. S. 165,) as well as in the McAnnulty case. But as already indicated, it would practically arrest the executive arm of the Government if the heads of departments were required to obtain the sanction of the courts upon the multifarious questions arising in their depart-

ments, before action were taken, in any matter which might involve the temporary disposition of private property. Each executive department has certain public functions and duties, the performance of which is absolutely necessary to the existence of the Government, but it may temporarily, at least, operate with seeming harshness upon individuals. But it is wisely indicated that the rights of the public must in these particulars override the rights of individuals, provided there be reserved to them an ultimate recourse to the judiciary.

In the view we have taken of this case, and of the action of the court below, as well as of the course of the argument here, we have not found it necessary to inquire whether the action of the Postmaster General in basing his fraud order upon the theory that the defendant were engaged in a scheme for obtaining money or property by means of false representations, was sustainable or not. As already stated, the master found that there had been no false representations of existing facts and no unfair dealing with the co-operators; yet, as we held in *Durland* v. *United States*, (161 U. S 206,) the misrepresentation of existing facts is not necessary to a conviction under a statute applying to "any scheme or artifice to defraud." As was observed by Mr. Justice Brewer, (p. 313) "some schemes may be promoted through mere representations and promises as to the future, yet are none the less schemes and artifices to defraud. . . . In the light of this the statute must be read, and so read it includes everything designed to defraud by representations as to the past or present, or suggestions or promises as to the future. The significant fact is the intent and purpose." But, notwithstanding this question, we are satisfied the Postmaster General did not exceed his authority in making the order in this case, and the judgment of the court below is therefore

Affirmed.

Mr. Justice Brewer, Mr. Justice White and Mr. Justice Holmes concurred in the result.

Mr. Justice Peckham dissented.

True copy.

Test:

Clerk Supreme Court, U. S.